

Prison Rape Elimination Act (PREA) Audit Report Adult Prisons & Jails

Interim Final

Date of Report 10/14/2019

Auditor Information

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Company Name: Washington State Department of Corrections

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Telephone: 360-725-8789 Date of Facility Visit: 02/05-08/2019

Agency Information

Name of Agency: Hawaii Department of Public Safety Governing Authority or Parent Agency (If Applicable): State of Hawaii

Physical Address: 919 Ala Moana Blvd. Suite #400 City, State, Zip: Honolulu Hawaii 96814

Mailing Address: Same as above City, State, Zip: Same as above

Telephone: 808-857-1288 Is Agency accredited by any organization? Yes No

The Agency Is: Military Private for Profit Private not for Profit

Municipal County State Federal

Agency mission: To uphold justice and public safety by providing correctional and law enforcement services to Hawaii's communities with professionalism, integrity and fairness.

Agency Website with PREA Information: <http://dps.hawaii.gov>

Agency Chief Executive Officer

Name: Nolan P. Espinda Title: Director

Email: nolan.p.espinda@hawaii.gov Telephone: 808-587-1350

Agency-Wide PREA Coordinator

Name: Shelley Harrington Title: Intake Service Center Division Administrator

Email: shelley.d.harrington@hawaii.gov Telephone: 808-587-1260

PREA Coordinator Reports to: Director of Public Safety Number of Compliance Managers who report to the PREA Coordinator 8

Facility Information			
Name of Facility:		Oahu Community Correctional Center	
Physical Address:		2199 Kamehameha Highway, Honolulu, HI 96819	
Mailing Address (if different than above):		Same as above	
Telephone Number:		808-832-1777	
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input checked="" type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
Facility Mission: To uphold justice and public safety by providing correctional and law enforcement services to Hawaii's communities with professionalism, integrity and fairness.			
Facility Website with PREA Information: http://dps.hawaii.gov			
Warden/Superintendent			
Name: Francis Sequeira		Title: Warden	
Email: francis.x.sequeira@hawaii.gov		Telephone: 808-832-1472	
Facility PREA Compliance Manager			
Name: Christopher Austria		Title: Adult Correctional Officer III	
Email: christopher.r.austria@hawaii.gov		Telephone: 808-832-1470	
Facility Health Service Administrator			
Name: Keith Wakabayashi		Title: Clinical Section Administrator	
Email: keith.t.wakabayashi@hawaii.gov		Telephone: 808-83201682	
Facility Characteristics			
Designated Facility Capacity: 950		Current Population of Facility: 1,101	
Number of inmates admitted to facility during the past 12 months			7,322 per PAQ
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			3,050 per PAQ
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			6,241 per PAQ
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			0
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 18 – 65 years of age	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input checked="" type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:			0

Average length of stay or time under supervision:	67.80 days
Facility security level/inmate custody levels:	Community custody to medium custody levels
Number of staff currently employed by the facility who may have contact with inmates:	591
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	55
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	2 per PAQ
Physical Plant	
Number of Buildings: 26	Number of Single Cell Housing Units: 1
Number of Multiple Occupancy Cell Housing Units:	12
Number of Open Bay/Dorm Housing Units:	6
Number of Segregation Cells (Administrative and Disciplinary):	36
<p>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</p> <p>Information obtained while on site indicated that most cameras are viewable by Central Command and other designated areas, such as the office of the Chief of Security. Cameras in the intake cells are able to be viewed in the booth in the module. Cameras in Module 8 that view the Close Observation cells are only viewable by the Chief of Security and the Safety Officer. Cameras in Annex 2 are only viewable at the officer's station in the unit as these are not incorporated into the master surveillance system.</p> <p>Retention of system recordings was noted as 60 days with only four (4) facility staff provided authorization to pull recorded video.</p> <p>Update – Additional information received from OCCC: The camera system consists of 144 cameras in total. The system is a combination of analog and digital, with a majority of the system being analog. The retention is approximately 60 days.</p>	
Medical	
Type of Medical Facility:	Infirmery with 24-hour care
Forensic sexual assault medical exams are conducted at:	Kapiolani Medical Center for Women and Children - SATC
Other	
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:	130 per PAQ
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	3 from OCCC plus 6 from Internal Affairs

Audit Findings

Audit Narrative

The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.

Beth Schubach, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for adult and juvenile facilities conducted the Prison Rape Elimination Act (PREA) audit of the Oahu Community Correctional Center (OCCC) in Honolulu, Hawaii. The on-site review of OCCC was conducted February 5 through 8, 2019. OCCC is operated by the Hawaii Department of Public Safety (PSD). The on-site review was conducted with the assistance of support staff from the Washington Department of Corrections: Jeneva Cotton, George Gilbert, and Lori Scamahorn. During the course of the audit, Beth Schubach conducted the documentation review, informal interviews with random staff and offenders, formal interviews with random and specialty staff, and authored this report. Support Team Members conducted formal and informal interviews with random and specialty staff and random and specialty offenders. It is noted that due to a temporary mobility issue on the part of the Auditor, the remaining Team members conducted the physical plant site review. This was arranged in advance with facility and agency representatives based on the presence of another certified DOJ auditor on the review team.

The notice of audit posted at OCCC stated:

DOJ PREA Audit

Oahu Community Correctional Center

February 5, 2019 to February 8, 2019

During the dates listed above, a US Department of Justice Certified PREA Auditor will conduct a PREA audit at this facility. If you want to provide information or talk with the PREA Auditor, you can do so by sending a letter directly to the PREA Auditor.

Staff or Offenders with information to provide may write to:

Beth Schubach

WADOC PREA Coordinator

P.O. Box 41131

Olympia WA 98504-1131

All correspondence must include "for OCCC PREA Audit" on the envelope; otherwise it will not be considered confidential.

CONFIDENTIALITY: All written and verbal correspondence and disclosures provided to the designated auditor are confidential and will not be disclosed unless required by law. There are exceptions when confidentiality must be legally breached. Exceptions include but are not limited to the following:

- If the person is in eminent danger to her/himself or others (e.g., suicide or homicide).
- Allegations of suspected child abuse, neglect or maltreatment.
- In legal proceedings where information has been subpoenaed by a court of appropriate jurisdiction.

The notice was posted in all housing units with the exception of Laumaka, in the dining hall, in the proximity of offender telephones, in offender activity and programming areas, in operational areas, and in offender service areas. The notice was posted January 2, 2019 with multiple photographs of postings provided to the Auditor. While on site, the Audit Team observed the audit notification in various locations throughout the facility, ensuring that facility staff, offenders, and visitors had the opportunity to contact the Auditor. The Auditor received a total of three (3) letters from OCCC offenders but not from any other individuals between the posting of the notification and the authoring of this report. The offenders who submitted letters were interviewed during the on-site review. Due to the lack of audit notice postings in Laumaka, the Auditor requested that the notice be reposted and remain available for offenders for 30 days following the on-site review. No additional letters from offenders or any other individuals were received.

Prior to the on-site review, the Auditor received confirmation from Just Detention International (JDI) that the organization had not received any information regarding PREA allegations or offender sexual safety at OCCC.

The Auditor received proof documents via a password protected flash drive from the PSD Program Specialist working in the agency's litigation unit on January 14, 2019. The flash drive contained relevant documentation pertaining to the PREA standards and the audit. This included, but was not limited to, the pre-audit questionnaire (PAQ); agency policies, facility procedures, memorandums of understanding and contracts, offender posters and brochures, and training documentation. In addition, prior to the on-site review, the Auditor exchanged numerous emails with the Program Specialist, PREA Compliance Manager and Warden as they related to follow up questions and concerns regarding the received documentation. The Auditor also reviewed the OCCC PREA Audit report from the facility's first PREA audit (final report dated 02/17/2017), the PSD's website and related PREA information, the PSD's annual PREA reports, and the PSD's Annual Assessments and Surveys of Sexual Victimization. Prior to arrival, the Auditor conducted telephone interviews with the Contract Administrator, the Headquarters Human Resources Manager, an Investigator from the Internal Affairs Unit, and the VolinCor (volunteers and contractors) Coordinator.

On Monday, February 5, 2019, the Audit Team arrived at OCCC at 0745. The Program Specialist met the Team and provided escort into the facility. Prior to arrival, Team members submitted information required to conduct the criminal background check required of all visitors and Team members were escorted at all times while inside the facility. Upon entry into the gatehouse, Team members were asked to provide proof of identification and names were located on a document as authorized to enter the facility. Lockers were provided in which Team members could secure cell phones, vehicle keys, and other items that were not permitted within the secure perimeter of the facility. Visitors are also required to sign in on a log maintained at the gate house. Visitors must also check back out with the gate house when leaving, providing accountability for all individuals entering the main compound. The Adult Correctional Officer (ACO) assigned to the facility gatehouse verified the identification of team members, provided each with a visitor badge, and ensured all sign in requirements were met. At 0800, an initial meet and greet was held in the Warden's conference room, attended by the Program Specialist, PREA Coordinator, Warden, Deputy Warden, Chief of Security, and staff who would be providing escort throughout the on-site review. It is noted that the PREA Compliance Manager (PCM) had been called away on military leave and was not available during all days of the on-site review. However, he was present at the facility for questions and formal interviews and for the close out meeting conducted.

After opening remarks and introductions, the Auditor discussed the logistics of the on-site review and provided an overview of the audit process, to include timelines regarding the post-audit phase of the process, the interim report and the final report. The Auditor briefly discussed the purpose of corrective action which, if warranted, would enhance implementation processes and sustainability, furthering enculturation and creating a safer environment for offenders and staff. Each participant was given an opportunity to ask questions regarding the audit process.

After the meet and greet, three members of the Team were provided with a thorough and comprehensive tour of the entire facility, visiting any area in which an offender may be present. The Auditor initiated formal interviews in a conference room provided while this tour was underway. The tour included, but was not limited to, housing units, medical services, kitchen and dining areas, programming and work areas, warehouses, master control, maintenance areas, and recreational areas. While touring, the Team paid particular attention to lines of site, privacy for offenders in specified areas, PREA reporting and victim advocacy posters, door and key security, offender movement, and staff and offender interactions. The Team also conducted informal discussions with staff and offenders while touring.

The facility is comprised of the following 26 buildings:

Module 1	Designated as mental health housing for males, but currently closed for construction
Module 2	Housing mental health and physically disabled male offenders
Module 3	Designated as housing general population male offenders, but currently closed for construction
Module 4	Housing general population female offenders
Module 5	Intake
Module 6	Medical unit
Module 7	Housing functionally impaired male offenders
Module 8	Housing mental health and suicide watch male offenders
Module 9	Visiting
Module 10	Administration building
Module 11	Housing general population male offenders
Module 12	Education
Module 13	Housing general population male offenders
Module 14	Industries and operations
Module 15	Industries and operations
Module 16	Food service
Module 17	Housing general population male offenders
Module 18	Housing general population, food service, and work line male offenders
Module 19	Housing general population male offenders
Module 20	Housing work furlough male offenders
Holding Unit	Housing administrative segregation, disciplinary segregation, and protective custody male offenders
Annex I	Dormitory general population male offenders designated as probation violators and sentenced felon probationers
Annex II	Dormitory general population male offenders with bail set at less than \$75,000
Mauka	Dormitory general population male offenders designated as sentenced misdemeanants and pre-trial misdemeanants
Makai	Dormitory general population male offenders designated as sentenced and facility work line offenders
Laumaka	Work furlough male offenders

Team members noted that the facility was clean and well maintained. All staff members were very professional, friendly, and welcoming. The Team observed productive interaction and respect between staff and between staff and offenders. Staff were observed monitoring offenders and conducting security checks in housing areas.

The following are comments noted by Team members while conducting the physical review of the facility:

- Cross gender announcements were made in every housing unit entered. The announcements were also noted in log books, which were reviewed while on site. Female staff announcements in Laumaka are made from the control center via a public address system.
- Tier checks are conducted only by staff of the same gender as the offenders housed in the unit.
- The facility is in the process of placing all PREA posters and telephone numbers behind Plexiglas. This was observed in some areas.
- PREA posters containing reporting methods were observed in all housing units except for Laumaka and Makai.
- Tier checks are conducted every 15 minutes in Module 7 and 8 (mental health), with the officer using an electronic system for logging these checks.
- Cell doors in Modules 2, 17, 18, and 19 have windows and the toilet can be seen when walking by the cell. However, offenders are required to put up a temporary barrier to block visibility whenever they are using the toilet.
- PREA signage was viewed throughout the facility, in housing units as well as operational and programming areas.
- The walls in the landscaping and building maintenance / plumbing area and in the welding shop are expanded metal, allowing for good visibility.
- Team members noted that Laumaka was not very clean, with trash cans overflowing.

Team members recommended the following actions be taken to address blind spots and improve security practices:

- Shower curtains in multiple areas (Mauka, Annex 1, Makai, Module 20, Laumaka, etc.) need to be shortened to allow staff patrolling the areas to ensure only one offender was in the shower at any time. UPDATE – The Auditor received photographs documenting the shortening of shower curtains as requested.
- The paper covering the light panel in the first-floor annex in Annex 2 results in poor lighting and should be removed. UPDATE – The Auditor received photographs documenting the removal of the paper as requested.
- Cameras were added to Annex 2 as a result of the most recent DOJ PREA audit. However, the positioning of the camera is insufficient to view the ends of all three tiers where four to six offenders are housed. This is addressed in the narrative for standard 115.13. UPDATE - Per email from Program Specialist 07/29/19, Annex II camera's cannot be moved due to major costs and is a proprietary system. There is in place since the last audit 6 required tier checks on all 3 shifts, however additional lights are being worked on and Annex II light fixtures were also cleared of paper which also lightens the area. The Auditor received final documentation of the installation of lighting as requested.
- The paper covering the window in the door into the officer's station in Makai should be removed. UPDATE – The Auditor received photographs documenting the clearing of the window as requested.
- Blinds in the in-patient unit in the infirmary restrict visibility and should be addressed. Team members were informed that the blinds were intended to prevent male offenders from communicating with female offenders; however, the offenders are secured to beds making it difficult for offenders to see from their beds out of the windows. UPDATE – The Auditor received photographs documenting the removal of blinds as requested.
- PREA posters in the disciplinary portion of the Holding Unit are too far away from the phones to be clearly viewed by offenders and should be enlarged or relocated. UPDATE – The Auditor was informed that the holding unit is currently under construction and there is no place to put a poster closer to the cells at this time. Offenders are currently able to see the posters on where they are posted on the wall going to the showers. UPDATE - Per 07/29/19 email from Program Specialist, due to physical plant restrictions, the facility is now providing offenders with a brochure with the same information on entry to the holding cells.

- A mirror is recommended in the detergent alcove in the laundry to address visibility issues. UPDATE – The Auditor received photographs documenting the installation of the mirror as requested.
- Classroom 3 in the education building needs a mirror to eliminate an identified blind spot. UPDATE – The Auditor received photographs documenting the installation of a mirror as requested.
- PREA posters are missing in Laumaka and Makai and need to be reposted. UPDATE – The Auditor received photographs documenting the reposting of posters as requested.
- Office 1 in Laumaka has offenders coming into the area but has no window in the door and no visibility behind the partitions. This should be addressed. UPDATE – The Auditor received photographs documenting the removal of partitions as requested.
- Some counselor offices in Laumaka have windows that are covered. This should be addressed. UPDATE – The Auditor received photographs documenting the removal of door window coverings as requested.
- Partitions in one of the offices next to the dining room had partitions high enough to inhibit visibility. The partitions should be lowered. UPDATE – The Auditor received photographs documenting removal of the partition as requested.

The Team was able to review camera placement and areas within the facility where video can be viewed. The security system was installed in 1995 and utilizes a fiber-optic infrastructure. The system is comprised of the Allegiant video system including the multiplexers, Pelco brand cameras/housing, and IFS brand media converters. The Allegiant system has three video components: 2-16 channel and 1-9 channel systems. The recording capability of the systems was integrated with five (5) DVR devices. The CCTV images are viewable in “real time” on seven (7) 19-inch Flat Panel monitors. The recording of the video images are limited to 30 frames per second shared for each channel. The system records frames when there is any type of activity within the selected pixel area of the image, normally the center area of the frame. Inactivity within the frame for more than one minute will stop the recording of frames. When the system senses movement / activity within the selected pixel area, recording resumes. The use of the VCR devices to record “video feed” was discontinued after it was determined that maintenance and repair costs were too excessive. The switch to a DVR recording system occurred in the year 2000. The current DVR recording system was installed in 2006 and is still in operation. Frame images are recorded and stored digitally on numerous hard drives with retention set at 60 days, after which the stored images are overwritten. The current DVR recording system utilizes a unique identifier for each recorded frame and the group frames into a viewable video sequence. The frame compilation of the video segment is protected. The Geovision codec is proprietary and any type of manipulation, adding or deleting of frames without detection, would be impossible. The only event that could occur would be the interruption of recording due to a sustained power outage. The existing battery back-up system was updated in 2017. Currently, back-up battery power is limited to 15 minutes, but this is enough time for the primary generators to supply power during a major power outage. There are a total of 104 individual cameras throughout the facility with 20 Terabytes of storage capacity which equates to 60 days of 24hour/7day recording.

Due to the nature of the facility, a majority of the staff at OCCC are custody positions, with sufficient non-custody staff to provide needed services and support. The custody staffing structure is ACO, sergeant, lieutenant, captain (usually a watch commander), chief of security, deputy warden, and warden. Custody shift hours are first watch 2300 – 0700, second watch 0700 – 1500, and third watch 1500 - 2300. Non-custody staff include maintenance operations, food services, administration, business office, offender services, education / library, medical, and mental health. Staff from Intake Services are also on site, but do not report through the facility’s chain of command.

February 5 through 8, 2019, interviews were conducted with OCCC staff and offenders. All interviews were conducted with the established USDOJ PREA interview templates. Interviews were conducted

based on lists provided by the facility. All interviews were conducted based on a truly random selection from lists provided, with no specific method of selection other than to ensure representation from all areas within the facility where available. Interviews included staff from each of the three shifts operated by the facility, to include graveyard.

Private locations were provided within the administration building (warden’s conference room) and within interior office spaces. ACO’s and Sergeants served as escorts during all interview processes. Staff were contacted via radio or telephone for interviews while offenders were located on housing units by escorting staff. All individuals interviewed were informed of confidentiality and provided with the opportunity to decline any interview.

There were 523 staff assigned to OCCC on the first day of the on-site review. A total of 85 staff interviews were conducted during the initial site review. This was adjusted to 87 with the completion of contractor interviews conducted via telephone on 04/15/2019.

Staff Category	Number of interviews
Random staff	25
Specialized staff	60 62
Total staff interviewed	85 87
Breakdown of specialty staff interviews conducted	
Agency head or designee	1
Warden	1
PREA Compliance Manager	1
PREA Coordinator and Program Specialist	2
Contract administrator	1
Intermediate of higher-level supervisor	7
Line staff who supervise youthful offenders – not applicable as the facility does not house youthful offenders.	0
Education and program staff who work with youthful offenders – not applicable as the facility does not house youthful offenders.	0
Medical and mental health staff	4
Human resources staff	1
SAFE/SANE staff	1
Volunteers who have contact with offenders	3
Contractors who have contact with offenders – it is noted that while on site, Team members were provided conflicting information regarding the availability of contract staff for interviews and, as such, no interviews were conducted while on-site. As a result, the Auditor was provided with contact information for two contractors. The Auditor attempted to contact these individuals on numerous occasions that did not result in the call being answered. This is addressed in the narrative for standard 115.32.	0 Updated to 2 04/15/2019 w/ interviews conducted
Investigative staff	3
Staff who perform screening for risk of victimization and abusiveness	5
Staff who supervise offenders in segregated housing	2
Staff on the incident review team	4
Designated staff member charged with retaliation monitoring	1

Staff Category	Number of interviews
First responders	13
Intake staff	3
Non-medical staff involved in cross-gender strip or visual searches	7
Representative from community-based victim advocacy organization	1
Offender disciplinary hearing officer	1
Grievance coordinator	1

The offender count was 1,101 on the first day of the on-site review. The facility capacity is 950, however the facility is consistently over capacity due to its primary function as a jail. It is noted that two housing units were closed for updates to locking systems. As a result, the mental health designated male offenders housed there were moved to another unit, displacing the female offenders housed there, who were then moved to the Women's Community Correctional Center.

A total of 45 formal offender interviews were conducted. Additionally, interviews were conducted with the offenders who submitted letters in advance of the on-site review. Based on the population of the facility, a total of 40 offender interviews were dictated by the USDOJ PREA auditor handbook.

Category	Number of interviews
Random offenders	27
Specialized offenders	18
Total offenders interviewed	45
Breakdown of specialty offender interviews conducted	
Youthful offenders – not applicable as no youthful offenders were housed at the facility	0
Offenders with a physical disability, blind, deaf, or hard of hearing	2
Offenders who are LEP	2
Offenders with a cognitive disability	1
Offenders who are lesbian, gay or bisexual	2
Transgender or intersex offenders	3
Offenders in segregated housing for high risk of sexual victimization – not applicable as no offenders fitting this category were housed at the facility	0
Offenders who reported sexual abuse	6
Offenders who disclosed victimization during a risk assessment	2

The Audit Team concluded the on-site portion of the audit on 02/08/2019. An out-brief was conducted with the Program Specialist, PREA Coordinator, Warden, Deputy Warden, Chief of Security, PCM Laumaka Supervisor, and escorting staff.

Facility Characteristics

The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.

The Hawaii Department of Public Safety (PSD) oversees operations in four (4) jails and four (4) prison facilities. The Oahu Community Correctional Center (OCCC) is one of the jails operated by PSD.

OCCC is located in urban Honolulu on 16 acres. It is designated as a jail facility housing pre-trial male and female detainees. A portion of the facility houses male work furlough offenders nearing release from a prison sentence, providing reintegration programming for this population. These offenders are transferred from other agency facilities and housed separately from jail offenders. As a result, the custody level of the facility is designated as Community to Medium levels.

OCCC is the largest jail facility operated in Hawaii. In October 2018, Correctional News reported that the agency has plans to construct a new 180-bed facility to allow for the transfer of female pre-trial detainees from OCCC in an effort to reduce overcrowding (Correctional News, Hawaii Official Move Forward with \$40 Million WCCC Expansion, October 15, 2018). OCCC also houses some of its offenders in the Federal Detention Center, which is located in close proximity to the facility.

The main portion of the facility consists of two separate fenced areas, maintaining a majority of the facility's housing units and operational areas. Modules are set up to offshoot from the center area with small yards or recreational areas along walkways for each housing unit. All housing units are built similarly with two (2) floors with cells on each, a small program area, a bathroom / shower area, and office / storage areas. The ACO (officer) sits in a station in the center of the module. Additionally, there are three units outside the primary perimeter fencing accessible from the exterior: (1) Mauka housing 32 offenders maintaining gang-style open shower bay and storage areas; (2) Annex 1 housing 84 males with a central day room, bathroom, kitchen and dining areas and staff office / work areas and two wings housing offenders extending to either side; and (3) Annex 2, nicknamed "Thunderdome" consisting of three (3) tiers of dorm-style housing holding 114 offenders with bathrooms on each floor. The Holding Unit is made up of three floors, cellblock style, with one shower at each end.

The visitation area has interview rooms for attorney visits and no-contract offender visiting. There is also a room for video arraignment hearings. The area maintains an officer's station with a 360-degree view of the entire visiting area. Interview room windows are not blocked and allow clear visibility.

The food service area (Module 18) has several cameras that are viewable in Central Command. Offenders were observed working in groups under the supervision of one staff member. No offenders were observed working alone or unsupervised.

Central Command housed two ACO's and one Sergeant. These staff do not have access to view cameras in Annex 2 or the Close Observation Areas in Module 8. While touring, Team members observed two offenders in the Close Observation cells being monitored by staff of the same gender as the offender. These two cells have a camera inside the cell that is only viewable by the Chief of Security in his office. As these offenders can be viewed on camera changing clothes and using the toilet, the Chief of Security was interviewed. Team members were informed that the Chief only spot checked the monitors when these cells are in use and generally only pulls video when warranted for investigatory purposes.

Maintenance shops operate in Modules 14 and 15, consisting of the commissary warehouse, staff offices, wood shop, electrical and janitorial shops, an ACO “shack”, welding, auto shop, and laundry areas.

The pre-trial population at OCCC is offered educational, self-improvement and religions programming opportunities. Sentenced offenders participate in reintegration programming and are offered rehabilitative opportunities regarding substance abuse, domestic violence, and parenting skills. Sentenced offenders also participate in community services programs through supervised work lines and provide operational support to the facility in the form of janitorial, food service, and laundry programs.

The facility also operates the Laumaka Work Furlough Program (LWFP) located across the street from the main facility, housing 96 males in three (3) two-story buildings. Offenders in this program are actively seeking employment or working in the community.



The adequacy of mental health care provided to OCCC offenders was the subject of a 2005 law suit, resulting in federal oversight beginning in 2008 and lasting until OCCC was able to raise the level of care to Justice Department standards, which took until 2014 to complete. The quality and quantity of mental health care was again under review as of 2017, citing lack of effective treatment and inadequate staffing. (The Disturbing State of Mental Health Care in Hawaii’s Prisons, October 2, 2017). OCCC has also been under review by the American Civil Liberties Union (ACLU) due to conditions and overcrowding (ACLU complaint submitted to the Deputy Assistant Attorney General January 6, 2016).

OCCC established non-contact visiting in September 2016, revising visiting schedules to allow more availability for families and friends of offenders (PSD News Release September 8, 2016). Family and friends of OCCC offenders are able to access information on the agency's public website regarding locating an offender, sending items to offenders, offender telephone systems, visiting processes, and bail procedures along with PREA reporting information.

The Auditor requested additional demographic information regarding OCCC, particularly regarding programming and job opportunities for offenders and the overall history of the facility. As of the writing of this report (03/24/2019), this information had not been received. UPDATE: Information was received from the OCCC Public Information Officer. It was learned that the facility was built in 1857 and moved to its current location in 1916. It was a cross-shaped facility with several buildings next to it, one of which is the Special Housing Unit, still in use today.



The Annex was constructed in the 1970's and the facility's current structure was finalized in the early 1980's.



At OCCC, all inmates/detainees classified as community, minimum, or medium have the ability to move freely within the facility. Movements are controlled by security posts situated at various points within the facility. Maximum custody level inmates are restricted in their movements and must be escorted to and from their destination within and outside of the facility. Mental health / therapeutic inmates are each prescribed a treatment plan by a Qualified Mental Health Professional that determines their level of movement regardless of their security classification.

Facility demographics:

Rated capacity	950
Population on day one of the on-site review	1,101
Age range of offenders	18+ years
Gender of offenders	Male and Female
Number of staff	523
Number of buildings	26
Number of single cell housing units (segregated housing)	1 with 36 cells
Number of open bay / dormitory housing units	6
Number of multiple occupancy cell housing units	12
Number of single cell housing units	0

A snapshot of the racial/ethnic composition of the inmate population on June 25, 2019 revealed the following:

African American	69	6%
American Indian	5	<1%
Asian	107	9%
Caucasian	241	20%
Filipino	149	12%
Hispanic	44	4%
Native Hawaiian	389	32%
Other	17	1%
Pacific Islander	180	15%
Unknown	24	2%
TOTAL	1226	100%

Summary of Audit Findings

The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category.** If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.

Auditor Note: No standard should be found to be “Not Applicable” or “NA”. A compliance determination must be made for each standard.

Number of Standards Exceeded: 0

Number of Standards Met: 45

- 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator
- 115.12 Contracting with other entities for the confinement of inmates
- 115.13 Supervision and monitoring
- 115.14 Youthful inmates
- 115.15 Limits to cross-gender viewing and searches
- 115.16 Inmates with disabilities and inmates who are limited English proficient
- 115.17 Hiring and promotion decisions
- 115.18 Upgrades to facilities and technologies
- 115.21 Evidence protocol and forensic medical examinations
- 115.22 Policies to ensure referrals of allegations for investigations
- 115.31 Employee training
- 115.32 Volunteer and contractor training
- 115.33 Inmate education
- 115.34 Specialized training: investigations
- 115.35 Specialized training: Medical and mental health care
- 115.41 Screening for risk of sexual victimization and abusiveness
- 115.42 Use of screening information
- 115.43 Protective custody
- 115.51 Reporting
- 115.52 Exhaustion of administrative remedies
- 115.53 Inmate access to outside confidential support services
- 115.54 Third-party reporting
- 115.61 Staff and agency reporting duties
- 115.62 Agency protection duties
- 115.63 Reporting to other confinement facilities
- 115.64 Staff first responder duties
- 115.65 Coordinated response
- 115.66 Preservation of ability to protect inmates from contact with abusers
- 115.67 Agency protection against retaliation
- 115.68 Post allegation protective custody
- 115.71 Criminal and administrative investigations
- 115.72 Evidentiary standard for administrative investigations
- 115.73 Reporting to inmates
- 115.76 Disciplinary sanctions for staff
- 115.77 Corrective action for contractors and volunteers
- 115.78 Disciplinary sanctions for inmates
- 115.81 Medical and mental health screenings: history of sexual abuse

- 115.82 Access to Emergency medical and mental health services
- 115.83 On-going medical and mental health care for sexual abuse victims and abusers
- 115.86 Sexual abuse incident reviews
- 115.87 Data collection
- 115.88 Data review for corrective action
- 115.89 Data storage, publication, and destruction
- 115.401 Frequency and scope of audits
- 115.403 Audit contents and findings

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

Corrective action was detailed for each standard noted as non-compliant in the interim report and is also detailed in the narrative for each identified subsection. Each subsection was reassessed as compliant following the corrective action period.

PREVENTION PLANNING

Standard 115.11: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

115.11 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment? Yes No
- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment? Yes No

115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? Yes No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy? Yes No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities? Yes No

115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) Yes No NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.11 (a)

The Auditor was provided with a memorandum dated December 3, 2013 from the agency Director to all Department of Public Safety (PSD) employees (#2013-002). This memo provided staff with an introduction to PREA along with a link to the PREA Resource Center for additional information.

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017), section 6.0 (page 11 – 12), states, "PSD has a zero tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents...A 'zero tolerance' policy means that sexual abuse and sexual harassment in any

form is strictly prohibited and all allegations of such conduct will be investigated. Any retaliation against individuals for reporting an incident is also prohibited and will be investigated. This policy is intended to set forth the procedures to implementing and managing a 'zero tolerance' policy." Also included in this policy are the agency's directives and procedures regarding:

- Related definitions;
- Supervision and monitoring;
- Limits to cross-gender viewing and searches;
- LGBTI offenders;
- Offenders with disabilities and limited English proficiency;
- Hiring and promotion decisions;
- Evidence protocol and forensic medical examinations;
- Policies to ensure referrals of allegations for investigations;
- Staff, volunteer and contractor training;
- Offender education;
- Screening for risk of victimization and abusiveness and use of screening information;
- Offender reporting;
- Offender access to outside confidential support services;
- Staff reporting and first responder duties;
- Coordinated response;
- Protection against retaliation;
- Criminal and administrative investigations;
- Disciplinary sanctions for staff and offenders as well as corrective action for contractors and volunteers;
- Medical and mental health screenings and services; and
- Sexual abuse incident reviews.

The Auditor was also provided with the Oahu Community Correctional Center Coordinated Response Plan (10/08/2018) detailing step-by-step actions to be taken in response to sexual or physical abuse, harassment, and misconduct allegations.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.11 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 7.0 (page 12) indicates that, "PSD has designated the Litigation Coordination Office, a branch of the Director's Office, to manage PREA. One of the Litigation Coordination Officer's function is to fulfil the role of the upper-level staff member designated to serve as the Department's PREA Coordinator. The Department PREA Coordinator shall have sufficient time and authority to develop, implement, and oversee PSD's efforts to comply with the PREA standards in all PSD facilities, lockups, inclusive of monitoring at privately contracted facilities and community correctional centers. The Department PREA Coordinator reports directly to the Director of the Department of Public Safety."

The Auditor was provided with the Office of the Director, Positional Organization Chart dated 06/30/2017. It was confirmed that the Litigation Coordination Officer reports directly to the PSD Director.

The Auditor reviewed positions descriptions for both the Litigation Coordinator and the Program Specialist, who reports to and supports the Litigation Coordinator. The position of the Litigation Coordinator states in part, "Functions as the departmental lead on the federal Prison Rape Elimination Act (PREA) through ensuring compliance with the PREA Standards at all prisons, jails, and lock ups under the purview of PSD. Is responsible for conducting audits and represents PSD in the Western State Consortium Agreement."

The position description of the Program Specialist states in part, “The incumbent of this position develops and implements policy and procedures for the purpose of sentence computation, litigation coordination, IUIPA/92F informational requests, administrative rule making, administrative tort claims, departmental policy, and the Prison Rape Elimination Act (PREA)...Reviews and revises departmental policies and procedures and conducts audits based on PREA for all PSD correctional facilities and law enforcement lock ups in compliance with the federal standards on how to prevent and detect sexual abuse and sexual harassment in confinement. Develops new or revised programs plans, policies and standards to meet changing federal PREA requirements. Monitors and evaluates PREA programs and/or projects to make recommendations for the development or revisions of policy and procedures, or techniques. Gathers and analyzes data on PREA programs and projects to determine conformance with standards, recommends improvements, and develops training materials for department use.”

The responsibilities of the PREA Coordinator are assigned to the Litigation Coordinator. During conversations with the previous Litigation Coordinator / PREA Coordinator (promoted to the position of Intake Service Center Division Administrator [ISCDA] in August 2018) and the current Program Specialist, it was learned that the new Litigation Coordinator has not yet assumed PREA Coordinator responsibilities. This is occurring in a methodical manner to ensure a thorough understanding of responsibilities and functions. It is anticipated that this will take approximately six (6) months. In the meantime, the former Litigation Coordinator is retaining PREA Coordinator responsibilities. The Program Specialist is assigned the day-to-day duties related to PREA, to include collaboration with all agency facilities, reporting to the PREA Coordinator. The authority and responsibility for the implementation and sustainability of PREA standards is the responsibility of the Litigation Coordinator with the assistance and support of the Program Specialist. The agency has designated the duties of the PREA Coordinator; however, it is very confusing. The duties of the PREA Coordinator are included in the position description of the LCO. However, this individual was just hired in August and will not assume responsibilities until she is off probation and has been trained, sometime after February. In the meantime, the former PREA Coordinator, now the ISCDA, has maintained responsibilities. To complicate the issue, the Program Specialist has responsibilities related to PREA as well and is seen as the PREA Coordinator among line-level staff within the facilities. She was referred to as the face of PREA in the facilities. The Wardens appear to understand that the Coordinator is the ISCDA but most line-level staff do not. Due to the confusion expressed in interviews during previous audits conducted, the Director’s designee was asked who the PREA Coordinator for the agency was. This individual reported that the unit falls directly under the director so she isn’t sure. She is one of five under the corrections division so she isn’t directly involved. She indicated she would have to say that the PREA Coordinator is the Program Specialist. It is recommended that once the LCO is off probation, a formal handing off of responsibilities occurs with role clarifying information provided to staff cross the agency. It is also recommended that the LCO become involved in PREA activities within the facilities, especially when the ISCDA and the Program Specialist are present and engage in clarifying discussions with staff.

During interviews, both the former PREA Coordinator and Program Specialist reported sufficient time and authority to manage all PREA-related responsibilities. The Program Specialist indicated she prioritizes her current workload, which includes both PREA and litigation responsibilities. Both reported that when they identify an issue with complying with PREA standards, they retrain, review with the PCM, and take actions needed to ensure compliance. The former PREA Coordinator indicated that she has the backing of and authority from the Director to take actions needed to ensure compliance in all facilities.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.11 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 7.0 (page 12) requires that, “Each facility shall have a designated Facility PREA Compliance Manager with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA Standards, which may be part of their

related duties. The Department PREA Coordinator will monitor the relevant PREA duties of the Facility PREA Compliance Managers in conjunction with the Warden or Sheriff.”

Per the Program Specialist, the duties of the PCM are extra assignments designated by the Warden. PCM's are designated by the Warden as they deem necessary. At OCCC, the PCM is an ACO 3 who has been temporarily assigned the duties of the PCM. In addition to the duties of the PCM, this individual is responsible for policy review and revision as well as special projects as assigned by the Warden and/or Chief of Security. The PCM is relatively new to the duties associated with his position, but has taken the necessary steps to learn the position. He has open communication with the Chief of Security and Warden as well as the staff at large. He is working with agency and facility staff to learn existing systems and develop new processes as needed. He appears very dedicated to the responsibilities of this position and eager to learn and work with resources available to enhance the sexual safety activities of the facility while addressing gaps in processes.

The Auditor was provided with a document entitled, “Facility PREA Compliance Manager” (not dated) that outlines the essential responsibilities of this position (referred to as the FPCM). These include, but are not limited to:

- FPCM is responsible for fostering a facility climate which condemns sexual abuse; provides victims with sensitive care, resources, and support; reports incidents of sexual abuse; and holds offenders accountable for their actions.
- Implement/coordinate facility awareness and prevention education for staff and inmates. Ensure that all staff, contractors, and volunteers have been trained on PREA initially and every two years with refresher information posted or distributed on the off year.
- Emphasize the importance of PSD's zero tolerance policy against sexual abuse, sexual harassment, and retaliation for reporting through leadership example, management presence, and unannounced rounds by management on all shifts.
- Maintain current information on PREA sexual abuse or sexual harassment incidents occurring in the facility and maintain a historical file for all reported incidents in the facility. Cross-reference information with the PSD PREA Coordinator.
- Monitor for a period of at least 90 days any reporting party (staff or inmates) and the alleged victim for retaliation.
- Ensure processing of documentation (mandatory reporting form) to notify the alleged victim of the status of the investigation, the findings of the completed investigation, and the proximity of the alleged perpetrator (staff reassigned from housing unit or accused inmate moved from housing unit).
- Review and conduct follow up related to a PREA incident including a review of reports, the PREA checklist, referrals to SATC, verification of medical and mental health protocol tracking and referrals for emotion support services, monitoring the status of the investigation, and monitoring for retaliation.
- Ensure that the Facility is processing the PREA Screening Tool Form as required by policy and the instruction manual. Based on an inmate's positive scoring determine if the COS or Watch Commander completed section VIII by considering the positive scoring when determining housing, programs, and work-line. Ensure that the programming and housing of Intersex and Transgender inmates are reviewed every six month.
- After an assessment of safety concerns, determine the need for physical separation, or other increased supervision options to ensure the safety of the alleged victim. Maintain and ensure ongoing communication and coordination of actions between facility superiors for housing.
- Ensure ongoing communication and coordination of actions between units and/or facilities if the alleged perpetrator or victim is reassigned. Ensures that Medical and Mental Health are included in any reported incident.

- Ensures that Sexual Abuse Incident Reviews (SAR) are conducted for all substantiated or unsubstantiated cases within thirty days of the completion of the investigation, unless the incident is unfounded. All findings of the review will be sent to the PSD PREA Coordinator and others on the distribution list. The PSD PREA Coordinator shall retain a copy of all SAR documentation.

In an interview, the PCM reported that he has sufficient time and authority to manage all PREA-related responsibilities. He has support from the Warden and Chief along with other ACO's intricately involved with implementation, also indicating that he has the authority to do what he needs to do. The PCM reported that he is "growing the facility team", putting systems in place, and conducting training.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Memorandum dated December 3, 2013 from the agency Director to all Department of Public Safety (PSD) employees (#2013-002) regarding the Prison Rape Elimination Act of 2013
- Agency policy AMD.08.08, *Prison Rape Elimination Act* (09/14/2014)
- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Oahu Community Correctional Center Facility Coordinated Response Plan (10/08/2018)
- State of Hawaii, Department of Public Safety, Office of the Director, Position Organizational Chart (06/30/2017)
- Position description for the Litigation Coordinator (not dated)
- Position description for the Program Specialist V (not dated)
- Facility PREA Compliance Manager listing of responsibilities (not dated)

Interviews conducted:

- PREA Coordinator
- PREA Compliance Manager

Standard 115.12: Contracting with other entities for the confinement of inmates

115.12 (a)

- If this agency is public and it contracts for the confinement of its inmates with private agencies or other entities including other government agencies, has the agency included the entity's obligation to comply with the PREA standards in any new contract or contract renewal signed on or after August 20, 2012? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates.) Yes No NA

115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.12 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) states, "PSD mandates that any new contracts or contract renewals with private agencies or other entities for the confinement of PSD's offenders shall include language that the private entity is required to adopt and comply with PREA, specifically the finalized PREA Standards. The private entity shall be subject to PSD monitoring/audits as part of its contract with PSD to ensure compliance with the PREA Standards. The private entity is responsible with complying with the audit requirements of the PREA Standards and any cost associated with audits..."

PSD currently contracts with CoreCivic for the confinement of offenders in the Saguaro Correctional Center. Amendment S1, section t (page 11 of the contract) requires that the provider, "be in full compliance with the Prison Rape Elimination Act (PREA. Failure to maintain full compliance with PREA as demonstrated through facility-specific PREA compliance audit shall constitute an event of default on the part of the Provider." It is noted that the original contract is with the Corrections Corporation of American, which was rebranded under the name CoreCivic following the implementation of this contract.

The Auditor reviewed the public website of the CoreCivic (<http://www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea>), which contains general PREA-related information as well as information regarding reporting and investigation. Also posted to this website is the organization's annual PREA report for 2017 and the DOJ PREA audit final report for the Saguaro Correctional Center dated 12/06/2017. The author of this report assessed the facility as exceeding 7 standards, being in compliance with 38 standards, and being non-compliant with 0 standards. It is also noted that the PSD public website contains information regarding the Saguaro Correctional Center, to include multiple contractual

compliance checklists from 2012 through 2018. It is recommended that PSD also include the DOJ PREA audit final reports for this facility on its public website page.

The Auditor was provided with contract BOP IGA-661-02 between the Hawaii Department of Public Safety and the Federal Bureau of Prisons (BOP), Federal Detention Center, Honolulu for the housing of PSD offenders in this BOP facility. This contract went into effect 10/25/2001 with no termination date and has not been amended since 08/26/2009. As such, it falls outside of the parameters of this standard. The PSD's Mainland Branch Unit (MBU) is responsible for monitoring of this contract. The Auditor reviewed the public website of the Federal Detention Center of Honolulu (https://www.bop.gov/locations/institutions/hon/HON_prea.pdf), which contains the DOJ PREA audit final report dated 04/23/2018. The author of this report assessed the facility as meeting all 45 standards.

It is noted that population reports for the agency reflect housing options for the Red Rock Corrections Center in Arizona. All population reports reviewed indicated that no offenders were housed in this facility and the Auditor was informed that the contract with this facility was not renewed.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.12 (b)

Monitoring activities specific to the PREA standards are not specifically detailed in the contract with CoreCivic; however, the contract does require compliance with standards, DOJ audits, and the ability of PSD to terminate the contract if CoreCivic fails to comply with these provisions. Additionally, the scope of services portion of the contract indicates that the state may have a full-time monitor on site, that the state has the right to inspect the facility in which offenders are confined, and may investigate in person or by record, all incidents involving offenders. The Auditor was informed that Hawaii pays for an onsite monitor as well as the quarterly audits. Documentation of the audits conducted by a PSD audit team are maintained on the agency's public website and are completed using a standardized Contractual Compliance Checklist. Included in this checklist are assessment items regarding PREA compliance, to include, but not limited to:

- Organization policy;
- DOJ audit results;
- Risk assessment screenings; and
- Provision of incident data.

It is noted that the agency contract is with the Corrections Corporation of America, which was re-branded under the name of CoreCivic following implemented of the contract.

The Auditor was provided with contract BOP IGA-661-02 between the Hawaii Department of Public Safety and the Federal Bureau of Prisons (BOP), Federal Detention Center, Honolulu for the housing of PSD offenders in this BOP facility. This contract went into effect 10/25/2001 with no termination date and has not been amended since 08/26/2009. As such, it falls outside of the parameters of this standard.

Contract requirements and monitoring activities were confirmed in interviews with the agency Contract Administrator. She remains current on the status of all monitoring activities and DOJ PREA audits to ensure compliance with the contract and safety of the offenders housed in these facilities.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Contract between the Hawaii Department of Public Safety and the Corrections Corporation of America, #PSD 16-ID.MS-32 (since rebranded as CoreCivic) effective 07/01/2016 through 06/30/2019

- The public website of CoreCivic (<http://www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea>)
- The 12/06/2017 audit report for the Saguaro Correctional Center
- The public website of the Hawaii Department of Public Safety (<http://dps.hawaii.gov/policies-and-procedures/pp-prea/>)
- The Mainland / FDC Branch Contractual Compliance Checklist completed for the June 24 – 29, 2018 audit of the Saguaro Correctional Center
- Contract BOP IGA-661-02 between the Hawaii Department of Public Safety and the Federal Bureau of Prisons, Federal Detention Center, Honolulu
- The public website for the Federal Detention Center of Honolulu (https://www.bop.gov/locations/institutions/hon/HON_prea.pdf)
- The 04/23/2018 audit report for the Federal Detention Center of Honolulu

Interviews conducted:

- Agency Contract Administrator

Standard 115.13: Supervision and monitoring

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? Yes No NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing

levels and determining the need for video monitoring? Yes No

- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? Yes No

115.13 (b)

- In circumstances where the staffing plan is not complied with, does the facility document and justify all deviations from the plan? (N/A if no deviations from staffing plan.)
 Yes No NA

115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? Yes No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies? Yes No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? Yes No

115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment? Yes No
- Is this policy and practice implemented for night shifts as well as day shifts? Yes No
- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.13 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 0.9.1 (page 12-13) requires that, "The Department PREA Coordinator in conjunction with the Institutions Division Administrator (IDA)

shall ensure that each facility develops, documents, and makes its best efforts to comply on a regular basis with a written staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring, to protect inmates against sexual abuse.”

The Auditor was provided with the Oahu Community Correctional Center PREA Staffing Plan and Review for 2018, which included an analysis of the requirements to meet PREA standard 115.13, an assessment of the inmate housing and the staffing plan, master rosters, and funded versus roster staffing reconciliation. The Auditor was also provided with the 2017 staffing plan to be able to demonstrate annual review.

Per an interview with the Warden, it was reported that he works with the position plan, noting that in 1999, an agreement went into effect in which the ACO's can select their post, position, and days off. The plan designated which posts are mandatory (red) and non-mandatory (back) with essential posts being the minimum number of staff assigned to a housing unit. The Warden noted that he reports to the agency headquarters monthly regarding staffing. The Warden reported that some of the factors taken into account are vacancies, worker's compensation, family leave, and sick leave and the annual review is conducted with the collaboration of the PCM, COS, deputy, and health care provider, examining commonalities, details from substantiated and unsubstantiated allegations, and any applicable trends.

It is noted that the PCM is relatively new to the position and as yet has not participated in an annual staffing plan review. He is, however, familiar with the process and the required elements.

During the on-site review, the camera system in place in Annex 2 was reviewed. Cameras were added to this unit as a result of the last DOJ PREA audit in 2016. Team members observed that the positioning and/or number of the current cameras is not sufficient to view the ends of all three tiers where four (4) to six (6) offenders are housed. The lighting is poor and there is limited visibility into the area.

Based on the camera issue identified in Annex 2, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include an analysis of the area and research into possible resolutions (e.g., lighting, additional cameras, adjustment of current cameras, additional rounds by assigned staff, etc.) followed by implementation of a comprehensive resolution.

UPDATE: 07/03/2019 The Auditor received information indicating that Annex II cameras cannot be moved due to major costs and the fact that it is tied into a proprietary system. It was noted that since the last audit, a process was put in place where by there were six tier checks completed on all three shifts. Additional lights are also being worked on. The Auditor was also provided with photographic documentation of the removal of paper from light fixtures, which also improved visibility.

UPDATE: 09/17/2019 The Auditor received a memorandum from the Warden addressed to all Annex 2 ACO staff, dated 09/12/2019) to serve as a reminder regarding tier checks. The memo reads as follows:

This memorandum serves as a reminder that ANNEX II ACO staff must conduct their tier checks. There should be a total of (6) random checks on each shift. This was previously discussed and put into place to address the corner room blind spots and address PREA concerns and liabilities. All checks are to be logged in the housing log book with who is conducting the check and the time. Failure to conduct these checks may result in corrective action being taken.”

UPDATE: The Auditor received photographic documentation of the completion of additional lighting installation which addresses the identified issue. With this work completed, OCCC is now compliant with the requirements of this subsection.

115.13 (b)

Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) section 9.0.2 requires that, “In circumstances where the facility's written staffing plan is not complied with, the facility shall document by

utilizing the PREA Mandated Reporting Form (PSD 8317) and justify all deviations from the plan. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

The Auditor was provided with sample documentation of deviations from the staffing plan in the form of PREA Mandated Reporting forms. The examples addressed shortages of female staff to be assigned to female gender positions, resulting in a male ACO being assigned to the position. Agency and facility level administrators continue to actively recruit female staff. Additionally, male staff interviewed were very familiar with cross-gender search parameters, indicating they have never completed such a search, but contact the Watch Commander to deploy a female staff member of site to fulfill these duties.

The Warden indicated that he is made aware of all deviations from the staffing plan through daily summaries provided by facility Watch Commanders.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.13 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 0.9.3 (page 13) requires that, “The Warden shall review the facility’s written staffing plan annually in the month of July at the start of the fiscal year, and submit his/her assessment to the Department PREA Coordinator via email, fax, or mail by the end of the month. The Department PREA Coordinator will schedule a formal meeting to review the written staffing plan which shall consist of assessing, determining, and documenting whether adjustments are needed to: (a) The written staffing plan...; (b) The facility’s deployment of video monitoring systems and other monitoring technologies; and (c) The resources the facility has available to ensure adherence to the staffing plan.”

It is noted that agency policy requires a formal meeting between the PREA Coordinator and the facility Warden. Per the information received from the PREA Coordinator, notice is provided to all facilities in July each year to update staffing plans. Upon receipt, she reviews plans along with data for each facility and discusses any changes with the Warden. These meetings / discussions are not formally documented.

The Auditor was provided with the OCCC staffing plan reviews from 2018 and 2017 and found them to be compliant with all standard requirements. There were no additional, unscheduled reviews indicated by issue or circumstance.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.13 (d)

Agency policy AMD.08.08, *Prison Rape Elimination Act* (09/22/2017) section 9.0.4 and .5 (page 14) requires that, “The Warden shall ensure that lieutenants, captains, and correctional supervisors conduct and document unannounced walk-through on all watches to aid in identifying and deterring staff sexual abuse and sexual harassment. This shall be documented in the housing unit Informer/Log Book and in the Supervisor’s watch summary.” Section 9.0.5 specifies that, “PSD staff is prohibited from alerting other staff members of the above unannounced walk-throughs by supervisors, unless such an announcement is related to the legitimate operational functions of the facility.” The prohibition against alerting other staff regarding unannounced rounds is also included in the 2017 PREA training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017)

The policy requires documentation in the unit informer / log book and in the supervisor’s watch summary. The Auditor was provided with a listing of twenty (20) individuals charged with the responsibilities associated with this subsection. These are the Warden, Deputy Warden, Major, six (6) Captains and eleven (11) Lieutenants. While on site, members of the Audit Team observed log book entries regarding

rounds conducted by Captains and Lieutenants. Members of the team also observed several of these individuals making unannounced / irregular rounds. However, during interviews with facility administrative staff, the Auditor was informed that rounds were made but not on graveyard or weekends unless intelligence was received that would indicate such a need. The Auditor requested documentation of rounds made by the Warden, Deputy Warden, and Chief of Security but as of the writing of this report (03/24/2019), such documentation has not been received.

Applicable staff interviewed during the on-site review are very aware of the need to vary pattern, points of ingress and egress, routes taken, etc. to minimize the likelihood of other staff announcing their presence while making rounds. Additionally, staff were observed out walking around the facility, so it would not be unusual for other staff members to observe them in any area of the facility. Staff also expressed a willingness to address related issues as they might arise.

Based on the lack of documentation regarding rounds made by facility executive staff, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include provision of applicable documentation throughout the corrective action period, documenting rounds conducted on all shifts as required by the standard.

UPDATE: 08/28/2019 The Auditor received log book examples for the Holding Unit and Module 11 with entries highlighted that reportedly document rounds conducted by the Warden, Chief of Security, Watch Commanders, Lieutenants, and Sergeants. 09/11/2019 received clarification as to who conducted highlighted rounds as the Auditor could not read any of the entries; tis confirmed that rounds were conducted by the noted individuals. However, documentation was only provided for two (2) of the nineteen (19) housing units. Documentation is insufficient to demonstrate compliance with subsection requirements.

UPDATE 09/17/2019 The Auditor received additional log book examples from the remaining units with entries highlighted that reportedly document rounds conducted by facility Lieutenants. Based on this documentation, OCCC is now assessed as compliant with the requirements of this subsection. It is recommended however, that the facility implement procedures to ensure rounds are conducted in these areas by administrators as well as Lieutenants to maximize sexual safety as well as engaging facility staff.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Oahu Community Correctional Center 2018 PREA Staffing Plan
- Oahu Community Correctional Center 2017 PREA Staffing Plan
- Examples of PREA Mandated Reporting forms (02/05/2018, 02/24/2018, 10/18/2018, 10/23/2018, 10/26/2018, 11/05/2018, 12/03/2018) documenting deviations from the staffing plan
- Curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Documentation of unit logbooks highlighting unannounced rounds
- Photographs documenting lighting installation

Interviews conducted:

- Warden
- PREA Compliance Manager
- Intermediate or Higher-Level Facility Staff

Standard 115.14: Youthful inmates

115.14 (a)

- Does the facility place all youthful inmates in housing units that separate them from sight, sound, and physical contact with any adult inmates through use of a shared dayroom or other common space, shower area, or sleeping quarters? (N/A if facility does not have youthful inmates [inmates <18 years old].) Yes No NA

115.14 (b)

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].) Yes No NA
- In areas outside of housing units does the agency provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact? (N/A if facility does not have youthful inmates [inmates <18 years old].) Yes No NA

115.14 (c)

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].) Yes No NA
- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].) Yes No NA
- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.14 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 10.0.1 and .5 (page 14) states that, "According to §HRS 706-667, the Court has the authority to commit a young adult defendant, who is sentenced to a term of imprisonment exceeding a period of 30 days to PSD...If PSD does receive a youthful offender as defined by PREA...then the youthful offender shall not be housed in a housing unit in which the youthful offender shall have sight, sound, and physical contact with any adult offender through the use of a shared dayroom or other common space, shower area, or sleeping quarters. The facility shall document by utilizing the PREA Mandated Reporting Form (PSD 8317) any non-compliance

with the above requirement. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

Per discussions with the PREA Coordinator, there are to be no youthful offenders housed in any agency facility. They are all to be housed either in the court jail or in detention facilities until the age of majority. She works with the courts and law enforcement officials to ensure housing of these offenders in a PSD facility does not occur. It was confirmed in an interview with the Warden that no youthful offenders have been housed in the facility in the 12 months preceding the on-site review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.14 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 10.0.6 (page 15) requires that, “PSD staff shall maintain sight, sound, and physical separation between the youthful offenders and adult offenders in areas outside of the housing units, or shall provide direct supervision, when youthful offenders and adult offenders have sight, sound and physical contact. The facility shall document by utilizing the PREA Mandated Reporting Form (PSD 8317) any non-compliance with the above requirement. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

Per discussions with the PREA Coordinator, there are to be no youthful offenders housed in any agency facility. They are all to be housed either in the court jail or in detention facilities until the age of majority. She works with the courts and law enforcement officials to ensure housing of these offenders in a PSD facility does not occur. It was confirmed in an interview with the Warden that no youthful offenders have been housed in the facility in the 12 months preceding the on-site review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.14 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 10.0.7 and .8 (page 15) requires that, “PSD shall document the exigent circumstances for each instance in which a youthful offender’s access to large-muscle exercise, legally required educational services, other programs, and work opportunities re denied in order to separate them from adult offenders by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. PSD shall make its best efforts to avoid placing youthful offenders in isolation to comply with this provision.”

Per discussions with the PREA Coordinator, there are to be no youthful offenders housed in any agency facility. They are all to be housed either in the court jail or in detention facilities until the age of majority. She works with the courts and law enforcement officials to ensure housing of these offenders in a PSD facility does not occur. It was confirmed in an interview with the Warden that no youthful offenders have been housed in the facility in the 12 months preceding the on-site review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Agency population reports January 2018 through December 2018

Interviews conducted:

- As no youthful offenders are housed in this facility, no formal interviews were conducted.

Standard 115.15: Limits to cross-gender viewing and searches

115.15 (a)

- Does the facility always refrain from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners?
 Yes No

115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.) Yes No NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 inmates before August 20, 2017.) Yes No NA

115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? Yes No
- Does the facility document all cross-gender pat-down searches of female inmates?
 Yes No

115.15 (d)

- Does the facility implement a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? Yes No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? Yes No

115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? Yes No
- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? Yes No

115.15 (f)

- Does the facility/agency train security staff in how to conduct cross-gender pat down searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? Yes No
- Does the facility/agency train security staff in how to conduct searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.15 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.1 (page 15) requires that, "PSD staff shall not conduct cross-gender searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening), except in exigent circumstances, or when performed by medical practitioners. An incident of cross-gender strip searches and cross-gender visual body cavity searches shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days." The definition of exigent circumstances is also addressed in the 2017 training that was required for all staff (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017). There were no such searches conducted at OCCC in the 12 months preceding the on-site review as there were no exigent circumstances that required deviation from search policy requirements.

The Auditor was also provided with Department of Public Safety, Corrections Administration Policy and Procedure COR.08.31, *Searches of Inmates*, dated 07/01/2010, which requires, "Strip searches shall be conducted in privacy by employees who are trained in search procedures and are of the same sex as the inmate...A strip search shall be made by an employee of the same sex as the inmate whenever possible. Another staff person of the same sex should act as witness and recorder in the event contraband is discovered." (sections 3.0.3.c. and 4.0.4.b. pages 3 and 6).

It is noted that no female staff anywhere in the agency are permitted to pat search male offenders unless there are exigent circumstances (e.g., life and death situations in which the female staff member cannot wait for a male staff member to arrive). If such a search were to occur, the ACO would be required to file a report with the Watch Commander who would then file a PREA Mandated Reporting form with the PREA Coordinator. During interviews, staff were very familiar with pat search requirements and the situations in which a cross-gender search might be indicated / authorized.

During the on-site review, it was learned that strip searches in the Intake Services Center are conducted with one officer and one offender and are not logged. It is recommended that this process be reviewed, possibly conducting all searches with two staff present to ensure the safety of both staff and offenders involved in the search. It is also recommended that all strips searched be logged, identifying the individuals who conducted the search.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.15 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.2 and .3 requires that, "PSD staff shall not conduct cross-gender pat-down searches of female offenders, absent exigent circumstances. All cross-gender pat-down searches of female offenders shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. Facilities shall not restrict female offenders' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision."

The PAQ submitted by the facility noted that the most common deviation from the staffing plan is due to a shortage of female ACO's. In an interview with the Warden, he indicated that this is an ongoing challenge with Watch Commanders, given the number of staff overall who are on extended leave or light duty. However, the Watch Commanders have been able to reassign staff, deploy staff as needed, etc. in order to meet search escort needs.

In interviews with staff throughout the facility, the Auditor found that they were very knowledgeable of search requirements and who to reach out to if assistance was needed. All were able to articulate the circumstances in which a cross-gender search might be indicated / needed. Officers reported that if a search is indicated for a female offender, but only male staff were in the immediate area, the individual would contact the Watch Commander who would be able to deploy a female staff member from another area. Staff indicated they would keep the offender under constant observation until a female staff member arrived, confirming that the facility does not restrict female offender access to programs and/or out-of-cell opportunities due to search-related staffing issues..

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.15 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.1 (page 15) requires that, "An incident of cross-gender strip searches and cross-gender visual body cavity searches shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days." During the 12 months preceding the on-site review, there were no cross-gender searches conducted. This was confirmed in interviews with staff at all levels through the facility. All staff also confirmed that were such a search was required based on circumstance, the search would be authorized by the Chief of Security and documented via a mandated reporting form submitted to the PREA Coordinator.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.15 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.4 and .5 (pages 15 – 16) requires that, "An offender shall be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances, or when such viewing is incidental to routine cell checks. The facility shall document any exigent circumstances by utilizing the PREA Mandated Reporting Form (PSD 8317) any incident. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. Staff of the opposite gender are required to 'knock and announce' their presence when entering an offender housing unit and ensure this notice is logged in the Informer or Log Book. For example, a male staff member entering a female housing unit must 'knock and announce' his presence via an intercom or a verbal broadcast by stating 'male in the housing unit, ensure that you are properly dressed.'"

During interviews with both staff and offenders, it was confirmed that staff made applicable announcements when entering housing units. Offenders confirmed that there were no ordinary circumstances in which offenders were naked in full view of staff, not including medical staff such as doctors, nurses. Cross-gender announcements were also confirmed by Audit Team members during the on-site review.

It is noted that no exigent circumstances that would require deviation from the agency's policy occurred during the 12 months preceding the on-site review. During the on-site review, an emergency response to offender unrest occurred, which would qualify as an exigent circumstance. However, the response team consisted of all male staff and the offenders housed in the unit entered were also all male and, as such, there was no deviation from the agency's policy.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection

115.15 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 12.0.1 and .2 states that, "PSD Non-medical staff shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown, it may be determined from conversations with the offender, by reviewing medical records, or, if necessary, by learning this information as part of a medical examination conducted by a medical practitioner."

Compliance with policy and standard requirements were confirmed in interviews with both staff and transgender offenders while the Team was on site. Additionally, transgender offenders interviewed reported they believed they had not been strip searched for the sole purpose of determining genital status.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.15 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 12.0.3 and .4 requires that, "PSD staff are to ensure that cross-gender pat-down searches and searches of transgender and intersex offenders are conducted in a professional, respectful, and in the least intrusive manner, while ensuring security and operational needs for the good government and orderly running of the facility. The professional and respectful pat-down search of a transgender and intersex offender may be achieved by using the back of your hand instead of the front of your hand." Training curriculum reviewed *Prison Rape Elimination Act of 2003, PREA, Corrections and Law Enforcement Training (02/02/2017)* contained required elements, including, but not limited to:

- The prohibition of "dual" searches where the staff of one gender searches the top half of the inmate and staff of the other gender searches the bottom half of the inmate;
- Use of the back of the hand to search an inmate's chest area;
- Using the blade of the hand to sweep across the side and bottom of the inmate's chest; and
- Requiring the inmate to shake out the bra.

Any staff member whose responsibilities include pat searches of offenders must have completed this training, thereby creating the requirement for all custody staff within the facility. This is a one-time training and will be updated only as policies and procedures change. At the time of the on-site review, there were 371 uniformed (custody) staff, with 37 designated as being on extended leave, leaving 334 active staff. A list of 32 randomly selected custody staff members was selected and documentation of the completion of the required training was requested. It is noted that 512 names were on total list of staff combined from all rosters provided. Current pat search training is included with the general PREA training for all staff. The Auditor selected every 10th name from the list and added the Warden, Deputy Warden and Major (Chief of Security). This resulted in a request for training transcripts for a total of 54 staff members, of which 32 were custody staff and therefore required to complete pat search training. A review of this

documentation indicated that 14 of the 32 staff whose records were received had not completed PREA training within the last two years, leaving a non-compliance rate of 44%. It is noted that the agency's PREA training runs on a two-year cycle and pat search training is incorporated into the general PREA training provided.

Custody staff interviewed confirmed completion of pat search training; however, many indicated that most recent training was completed prior to the codification of PREA standards. As such, the training completed would not have included standard-required elements regarding cross-gender searches and searches of transgender and/or intersex offenders.

Additionally, the Auditor received a tracking document from the Training Sergeant which documents training completion for all staff assigned to the facility. A review of this document revealed that of the 334 uniformed staff, 135, or 40% had not completed PREA training in the last two years. This is relatively close to the non-compliance percentage found when reviewing actual training transcript records.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) ensuring an accurate consolidated listing of all staff assigned to the facility is in place and (2) providing pat search training to all staff who are delinquent in completing requirements.

UPDATE: Information was received by the former PREA Coordinator regarding the process being implemented to address identified training tracking issues.

Based on the training concerns raised from OCCC's PREA Audit, the matter was discussed with the Deputy Director of Administration...The Training and Staff Development (TSD) Academy is currently under the Administration Division's organization chart. The Deputy Director has initiated a committee to outline all training requirements from Correction to Law Enforcement to Civil Servants. The first phase is developing a schedule of all training requirements for all positions throughout PSD. Once identified, then all staff's training records will be merged into this new record keeping system, which eventually will result in monthly list of soon to be expiring trainings for staff. It will then be TSD and the program's responsibility to ensure attention and completion of the required training by the staff member. This is our methodology to ensure training schedules vs. by programs individually.

UPDATE: 07/29/2019 The Program Specialist provided an email indicating that training regarding pat searches is included in annual employee PREA training; therefore, training compliance is being calculated in the same manner as 115.31. Received an updated training log as of 07/29/2019 along with additional documentation of training completion. The Auditor is using 523 as the number of staff as this is what was provided by HR through the former PREA Coordinator. 213 individuals are highlighted on the report as needing training completed. Of these, 22 could be deleted as the individual is on extended leave (FLMA, military, workers comp, etc.). Compliance was calculated as follows: 523 – 22 on extended leave = 501 current staff requiring training; 191 of these have not completed required training; leaving a non-compliance rate of 38%, which is insufficient to bring the standard into compliance.

UPDATE: 08/20/2019 The Auditor received an updated training log as of 08/19/2019 along with additional documentation of training completion. The Auditor is using 523 as the number of staff as noted above. 220 are highlighted on the report as needing training, which is higher than the report provided 07/29/2019. Of these, the Auditor deleted a total of 34 individuals as being away from the facility (22 worker's compensation, 1 transferred, 1 reassigned, 1 administrative leave, 1 sabbatical, 3 military leave, 3 family medical leave, and 2 retired). Compliance was calculated as follows: 220 incomplete less 34 as noted = 186 training incomplete out of 489 possible (523 – 34) = 38% of OCCC staff have not yet completed PREA training requirements.

UPDATE: 08/30/2019 The Auditor received an updated training log as of 08/30/19. The Auditor is using 523 as the number of staff as noted above. 222 are highlighted on the report as needing training, which is higher than the reports provided previously due to 2 additional staff being noted as out on worker's compensation. Of these, the Auditor deleted a total of 36 individuals as being away from the facility (24 worker's compensation, 1 transferred, 1 reassigned, 1 administrative leave, 1 sabbatical, 3 military leave, 3 family medical leave, and 2 retired. Compliance was calculated as follows: 222 incomplete less 36 as noted = 186 training incomplete out of 487 possible (523 – 36) = 38% of OCCC staff have not yet completed PREA training requirements.

UPDATE: 09/13/2019 The Auditor received an updated training log as of 08/30/2019 with entries clarified and corrected along with additional Acknowledgement of Training forms. The Auditor is using 523 as the number of staff as noted above. A total of 55 of staff are documented as being away from the facility as follows:

- 1 - sabbatical
- 10 – close of business (signifying retirement)
- 2 - retired
- 3 – family medical leave
- 1 – administrative leave
- 6 – reassigned / detached to another facility
- 5 – military leave
- 27 – worker's compensation

The updated spreadsheet documents the completion of PREA training sometime during 2018 (when full training was required) for all but 17 staff (14 - training completed in 2017; 3 – staff on annual leave / vacation) of the remaining 468 staff, leaving an overall training compliance rate of 96%. Per information received from the Program Specialist, those individuals noted with “corrective action” dates are the dates training was completed. Based on this updated information, OCCC is now assessed as compliant with the requirements of this subsection. It is recommended that OCCC develop sustainable practices to ensure all training requirements are met on an ongoing basis.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum Prison Rape Elimination Act of 2003, PREA, Corrections and Law Enforcement Training (02/02/2017)
- OCCC employee training log
- Training transcripts for custody staff randomly selected by the Auditor
- Department of Public Safety, Corrections Administration Policy and Procedure COR.08.31, *Searches of Inmates*, dated 07/01/2010
- 07/15/2019 email from former PREA Coordinator regarding training reorganization
- Multiple training tracking spreadsheets and associated Acknowledgement of Training forms

Interviews conducted:

- Non-Medical Staff involved in Cross-Gender Strip or Visual Searches
- Random Sample of Staff
- Random Sample of Female Offenders
- Random Sample of Offenders
- Transgender / Intersex Offenders

Standard 115.16: Inmates with disabilities and inmates who are limited English proficient

115.16 (a)

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)? Yes No
- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing? Yes No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills? Yes No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision? Yes No

115.16 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient? Yes No
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? Yes No

115.16 (c)

- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.16 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 13.0.1 (page 16) requires that, "Disabled offenders and offenders with limited English proficiency shall be provided with equal opportunity to participate in or benefit from all aspects of PSD's efforts to prevent, detect, and respond to sexual abuse and sexual harassment."

The Director's designee confirmed that procedures are in place to ensure offenders with special comprehension and language needs receive information regarding PREA reporting and sexual abuse prevention. The individual confirmed that Pacific Interpreters provide interpreter services as needed and they are currently working with the offender telephone provider (GTL) for installation of Purple Communications (sign language) to better meet offender need.

Interviews conducted with LEP and disabled offenders confirmed the provision of PREA-related materials and information via methods to address their individual needs. Per the Program Specialist, there are no written materials used for effective communication about PREA with inmates with disabilities or limited reading skills. Any staff member can explain the PREA pamphlet which is overviewed with them at new admissions and Laumaka / Module 20 (work furlough units to which offenders are transferred from other agency facilities) by case management. Offenders with limited reading skills are able to watch and hear the orientation video. The video is also closed captioned for those who are deaf or hard of hearing.

It was learned while on site that the orientation video was not always shown to new admissions as required, particularly on swing shift, leading to some offenders not receiving the required information. Standard 115.33 is found non-compliant as a result. However, the Auditor cannot determine if any disabled or LEP offender missed being shown the video and as a result, 115.16 is also being assessed as non-compliant. Corrective action should include (1) addressing the conduct issue with staff assigned to the area, (2) creating an acknowledgement form for offenders to sign, confirming they have viewed the video; and (3) reconciliation by the PCM of the list of offenders processed through intake with the acknowledgement forms completed.

UPDATE: 07/29/2019 The Auditor received documentation of offenders confirming completion of orientation for March (118), April (151) and May (144). However, there is nothing to indicate the number of offenders received during these months, so there is no way to determine if all offenders received training. There is also no documentation of reconciliation by the PCM regarding the offenders received and the offenders trained.

UPDATE: 07/29/2019, 09/13/2019, 09/17/2019 The Auditor received documentation of offenders confirming completion of orientation for multiple housing units.

Based on the continual movement of offenders in an out of the facility and the reposting of current PREA-re-later information in all housing units, the Auditor has determined that the actions taken were sufficient to ensure that all current offenders had received the information they were required to receive on intake.

MODULE	Number on unit roster	Number of orientation completion forms provided	% completed
Module 1	Closed due to construction	Not applicable	Not applicable
Module 2	53	57	107% due to offender movement during the day
Module 3	Closed due to construction		
Module 4	89	53	60%
Module 5	Designated as intake		
Module 6	Medical Unit (not housing)		
Module 7	15	14	93%
Module 8	24	20	83%
Module 11	70	62	88%
Module 13	71	63	89%
Module 17	71	69	97%
Module 18	75	66	88%
Module 19	71	65	92%
Module 20	77	66	86%
Holding Unit	As of 09/13/19 the unit is under construction and has been for approximately one month; when reopened, any offender placed in this unit will be provided with a PREA brochure and the opportunity to ask questions of staff.		
Annex 1	120	109	91%
Annex 2	149	147	99%
Mauka	40	37	92%

MODULE	Number on unit roster	Number of orientation completion forms provided	% completed
Makai	41	42	102% due to offender movement during the day
Laumaka	78	70	90%
TOTAL	1044	940	90%

UPDATE 08/01/2019 The Auditor received memo dated 03/12/2019 from the Chief of Security to all Module 5 Uniformed Staff that reads:

“This memo is being generated for the instruction of the inmates PREA training video, Please review the following steps and ensure that these tasks are completed prior to the inmates being housed.

- *The PREA training video should remain on to ensure all intake inmates receive PREA training as they are processed into the facility.*
- *Once the video has been received, inmates should be directed to sign and date the PREA orientation form.*
- *One copy should then be placed in the housing file and another copy should be forwarded to the PREA compliance manager...*”

UPDATE – The Auditor was provided with documentation of admissions for 09/17/2019, 09/18/2019, 09/19/2019, and 09/20/2019 along with signed forms confirming the completion of orientation for each offender processed into the facility. This demonstrates compliance with the mandate as issued by the Chief of Security and brings the facility into compliance with the requirements of this subsection.

115.16 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 13.0.1 and .4 (page 16) requires that, “Disabled offenders and offenders with limited English proficiency shall be provided with equal opportunity to participate in or benefit from all aspects of PSD’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment...The Civil Right Compliance Office (CRCO) has designated procedures for the use of authorized interpreters. Effective August 20, 2013, Pacific Interpreters at 1-866-421-3463 shall be contacted for interpreters. If further assistance is required on this matter, contact the Department PREA Coordinator or the Facility PREA Compliance Manager.”

PSD published a “Limited English Proficiency Plan” (September 1, 2017 through October 31, 2019) which details the reasonable steps to be taken “...to ensure persons with limited English proficiency gain meaningful access to PSD’s services and programs.” This document outlines definitions of LEP persons, the Departmental reporting tool designed to obtain key information about the LEP population, a compilation of a multi-lingual listing of PSD staff volunteers, provision of oral interpreter and written translator services, and the role of the LEP Plan Coordinator. The plan also requires that the LEP Coordinator continue to provide regularly scheduled training for PSD staff which is to “...include the LEP Plan, the Department’s policy and procedure, the application of the developed information and statistical forms the reporting requirements of the staff to the LEP Coordinator.” Training regarding interactions with and the rights of LEP offenders is included in the curriculum, *Prison Rape Elimination Act*, PREA, *Corrections and Law Enforcement Training* (02/02/2017) pages 75 – 78, which is required for all staff.

The Auditor was provided with an informational brochure entitled “How to Access a Telephonic Interpreter” produced by Pacific Interpreters. Also received was a memo from the Civil Rights Compliance Officer verifying the establishment of an account with Pacific Interpreters, Inc. The Auditor was also provided with PREA posters published in English, Tagalog, Ilocano, and Samoan. Per the

Program Specialist, any additional language needs would be addressed through use of contracted interpreter telephone services. Any staff member can access these services any time as needed to explain the PREA pamphlet which is overviewed with them at new admissions and Laumaka / Module 20 by case management.

Interviews conducted with LEP and disabled offenders confirmed the provision of PREA-related materials and information via methods to address their individual needs.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.16 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 13.0.2 and .3 (page 16) states, "The use of offender interpreters, or other types of offender assistance is prohibited, except in limited exigent circumstances where an extended delay in obtaining an effective interpreter could compromise an offender's safety. In the limited circumstances where offender interpreters, or other types of offender assistance is utilized, it shall be documented utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax or mail within three (3) days."

It is noted that the PAQ indicated that offender interpreters were used in 21 instances that were non-exigent circumstances. However, it was learned while on site that this is the number of times during the 12-month documentation period that a contract interpreter was used, and this information was incorrectly entered on the PAQ. The correct number should be zero.

The prohibition of the use of offender interpreters except in exigent circumstances is addressed in the 2017 training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017). In an offender interpreter were to be used in exigent circumstances, a PREA Mandated Reporting form would be required for submission to the PREA Coordinator. All staff interviewed indicated that they were never use an offender interpreter; rather they would contact the watch commander or other supervisor to secure a staff or contracted interpreter as any information related to PREA is highly confidential and using an offender to interpret would breach confidentiality, putting individuals at risk. Additionally, all staff interviewed indicated they could not recall an instance in which an offender was allowed to interpret for another offender regarding any PREA-related issue or information.

Limited English proficient offenders interviewed while on-site confirmed assistance from staff when needed to understand PREA-related information. None reported the use of another offender when interpretation related to PREA was needed.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Informational brochure entitled "How to Access a Telephonic Interpreter" produced by Pacific Interpreters
- 06/07/2013 memo from the Civil Rights Compliance Officer verifying the establishment of an account with Pacific Interpreters, Inc.
- PSD Limited English Proficiency Plan (September 1, 2017 to October 31, 2019)
- Training curriculum *Prison Rape Elimination Act, PREA, Corrections and Law Enforcement Training* (02/02/2017)
- PREA posters in English, Tagalog, Ilocano, and Samoan

- PREA Mandated Reporting forms documenting when contract interpreters were used in non-emergent situations.
- Admissions logs for 09/17/2019, 09/18/2019, 09/19/2019, and 09/20/2019 and all related Inmate Orientation Forms

Interviews conducted:

- Director's Designee
- Offenders with Disabilities or who are LEP
- Random Sample of Staff

Standard 115.17: Hiring and promotion decisions

115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? Yes No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? Yes No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No

115.17 (b)

- Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates? Yes No

115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency: perform a criminal background records check? Yes No
- Before hiring new employees, who may have contact with inmates, does the agency: consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse? Yes No

115.17 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates? Yes No

115.17 (e)

- Does the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees? Yes No

115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? Yes No
- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? Yes No
- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? Yes No

115.17 (g)

- Does the agency consider material omissions regarding such misconduct, or the provision of materially false information, grounds for termination? Yes No

115.17 (h)

- Does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work? (N/A if providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.17 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.1 (page 17) states that, *PSD prohibits the hiring or promoting of anyone, who may have contact with offenders, and shall not utilize the services of any contractor or volunteer, who may have contact with offender, if that person:*

- *Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution owned, operated, or managed by the state as defined by 42 U.S.C.*

1997, for example the Hawaii State Hospital or other state skilled nursing, intermediate, long-term care, custodial, or residential care institution;

- *Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threat of force, or coercion, or if the victim did not consent or was unable to consent or refuse;*
- *Has been civilly or administratively adjudicated to have engaged in the activity described in the paragraphs above.*

The Auditor was provided with a blank form used by the Department of Public Safety Personnel Management Office to document self-disclosure of identified misconduct by all applicants and current employees. Each applicant is required to complete this form as part of the application packet. The questions included in this form are as follows:

In accordance with Federal law, the State of Hawaii shall not hire nor promote anyone who may have contact with inmates who:

- A. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution?

Have you engaged in sexual abuse as described in (A) above?

- B. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, over or implied treats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?

Have you been convicted of engaging or attempting to engage in sexual activity as described in (b) above?

- C. Has been civilly or administratively adjudicated (there was a formal finding and a judgement or decision was settled in a civil or administrative proceeding) to have engaged in the activity described in (B) above?

Have you been civilly or administratively adjudicated to have engaged in the activity described in (B) above?

- D. Has been the subject of substantiated allegations of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment.

Have you been the subject of a substantiated allegation of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment?

In addition, the agency requires that all applicable databases are reviewed to ensure there is no available information that has not been disclosed by the applicant. These databases include, but are not limited to, the National Sex Offender Search, and databases maintained by the Civil Rights Compliance Office, Human Resources regarding disciplinary records, Labor Relations, the PREA Office, and the Internal Affairs Unit.

The facility noted that there was a total of 55 individuals who were hired or promoted within the 12 months preceding the on-site review. The Auditor randomly selected 6 names for which personal records were requested. This list consisted of two (2) promotions from the list of fifteen (15), one (1) out of six (6) Adult Correctional Officer new hires, and three (3) from the list of thirty-four (34) other new hires. The Auditor requested documentation of sexual misconduct disclosure forms, all of which were completed and contained in packets provided. Additionally, all files reviewed indicated no issues discovered in a search of applicable databases as noted above.

The Auditor received information from the facility that contractors provide services in Family Therapy and Counseling Services, and the Cognitive Behavioral Intervention Program. The Scope of Services documents for each of these providers was reviewed and found not to include provisions regarding PREA training and compliance with standards. However, the Auditor was not provided with the full contract for either provider. The scope of services for Family Therapy and Counseling Services did include the requirement for the provider to “comply with all Federal, State and County laws, administrative rules, regulations, ordinances, etc. and terms or conditions of the Department of Public Safety.”. The Auditor

was provided with a list of contractors who provide services in the facility. However, this list did not include the agency contracted nurses noted on the schedule provided for Health Services staff. The Auditor subsequently requested a re-review of the contractor list to ensure all applicable individuals were included. The Auditor also requested that information regarding the start dates for each individual be documented in order to determine which individuals were applicable for review under this subsection. As of the date of the writing of this report (03/24/2019), this information had not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a thorough review of all contractors and a system developed to ensure an accurate and up to date list is continuously maintained. Finally, confirmation of the review of identified acts of sexual misconduct should be provided for all contractors beginning service since the onset of the facility's documentation period.

UPDATE: 09/13/2019 The Auditor received a memo dated 07/22/219 from the Volunteer Coordinator outlining the process established for the training, background checks and facility lists for all volunteers and contractors. It notes in part, "Once a volunteer or contractor is approved and has completed training they will be placed on an active listing that is forwarded to the facility where they are approved to enter for programs and classes for a period of two years whereupon they are required to attend a one-night (which includes PREA refresher training) to become recertified to continue providing services." Additionally, the Auditor received a memo dated 08/28/2019 from the OCCC Deputy Warden clarifying the facility's procedures for volunteer and contractor lists and authorized entry, which states, in part, "All volunteers and Contractors must be referred ad then apply through the Department's VolinCor program. Once accepted, background checks are conducted and they are sent to a scheduled VolinCor training...Once the background and training has been completed they are placed on a master contractor and volunteer list that is maintained by PSD VolinCor Program Coordinator. Because the authorized volunteer/contractor does not consistently come on a daily or weekly basis the facility has a program schedule with authorized and cleared volunteer/contractor names listed for the program, dates and times. This schedule is updated monthly and sent through the Chief of Security for approval. These lists are placed at Laumaka and the entry post of OCCC main facility. Volunteers and contractors are checked in utilizing these approved program schedules and/or approved memorandum with the photo ID for entry." The Auditor was also provided with a listing of approved community programs and an OCCC daily program schedule for 09/01/2019 through 09/30/2019. Finally, the Auditor was provided with examples of memos requesting and approving entry into the facility for specific individuals to enter the facility on specific dates / times. Based on this process and the steps required for an individual to be added to the approved list, OCCC is now assessed as compliant with the requirements of this subsection.

115.17 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.2 (page 17) states that, "PSD shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to utilize the services of any contractor or volunteer, who may have contact with offenders."

The Auditor was provided with a blank application packet, which included applicant disclosure regarding the identified elements of misconduct. Each applicant is required to complete this form as part of the application packet.

The Auditor was provided with a blank form used by the Department of Public Safety Personnel Management Office to document self-disclosure of identified misconduct by all applicants and current employees. The Auditor reviewed the PSD self-disclosure form (PSD 8318) and found the following: "... the department may consider any incidents of sexual abuse or sexual harassment in determining whether to hire or promote anyone who: Has been the subject of substantiated allegations of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment." This statement conflicts with Policy ADM.08.08 which states PSD prohibits hiring or promoting anyone (who may have contact with offenders) that has engaged in sexual abuse in a

confinement setting. The former PREA Coordinator has reviewed this document with the HR Administrator to determine the intent of this item and corrections have been made onto form PSD 8318 for future applicants. NOTE, the corrected / updated 8318 form was provided to the Auditor.

The facility noted that there was a total of 55 individuals who were hired or promoted within the 12 months preceding the on-site review. The Auditor randomly selected six (6) names for which personal records were requested. This list consisted of two (2) promotions from the list of fifteen (15), one (1) out of six (6) Adult Correctional Officer new hires, and three (3) from the list of thirty-four (34) other new hires. The Auditor requested documentation of sexual misconduct disclosure forms, all of which were completed and contained in packets provided. Additionally, all files reviewed indicated no issues discovered in a search of applicable databases as noted with subsection 115.17 (a) above.

An interview with the Human Resources Manager confirmed the agency considers prior incidents of sexual harassment when determining whether to hire or promote any individual. She indicated a check with the HQ PREA office was completed, searching for any prior incident and to determine if the allegations was substantiated. She also confirmed a review of prior institutional employers during the hiring process.

The Auditor received information from the facility that contractors provide services in Family Therapy and Counseling Services, and the Cognitive Behavioral Intervention Program. The Scope of Services documents for each of these providers was reviewed and found not to include provisions regarding PREA training and compliance with standards. However, the Auditor was not provided with the full contract for either provider. The scope of services for Family Therapy and Counseling Services did include the requirement for the provider to “comply with all Federal, State and County laws, administrative rules, regulations, ordinances, etc. and terms or conditions of the Department of Public Safety.” The Auditor was provided with a list of contractors who provide services in the facility. However, this list did not include the agency contracted nurses noted on the schedule provided for Health Services staff. The Auditor subsequently requested a re-review of the contractor list to ensure all applicable individuals were included. The Auditor also requested that information regarding the start dates for each individual be documented in order to determine which individuals were applicable for review under this subsection. As of the date of the writing of this report (03/24/2019), this information had not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a thorough review of all contractors and a system developed to ensure an accurate and up to date list is continuously maintained. Finally, confirmation of the review of identified acts of sexual misconduct should be provided for all contractors beginning service since the onset of the facility’s documentation period.

UPDATE: Based on the processes and documentation detailed for subsection 115.17 (a), OCCC is now assessed as compliant with the requirements of this subsection.

115.17 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/201) section 14.0.3 (page 17) specifies that, “Before new employees, contractors or volunteers, who may have contact with offenders, are hired, PSD shall (a) Perform criminal background records checks, consistent with federal, state, and local law; and (b) Utilize a ‘best effort’ to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation, due to a pending investigation of an allegation of sexual abuse.”

The Auditor was provided with a blank Request, Consent and Notification for Fingerprint Clearance for State Civil Service, Non-Civil Service and Exempt Employment form. The applicant is required to complete this form to provide information needed for the completion of criminal background checks. Additionally, the Auditor was provided with a Confidential Employer Questionnaire form, which is used to

document the information collected from former employers listed in an applicant's resume / application packet. Included in the questions making up the form is the collection of information regarding voluntary resignation versus termination, as well as the sexual misconduct questions included with subsection 115.17 (a). These documents are maintained in the individual's employee file if hired or promoted.

The Auditor randomly selected five (5) new hires from the list of forty (40) provided by the facility (55 hires and promotes less 15 promotes). These individuals were selected to ensure representation from various operational areas of the facility. Documentation packets were reviewed, and the Auditor confirmed verification as required with applicable prior employers and the completion of criminal background checks. An interview with the Human Resources Manager confirmed completion of criminal background checks prior to the hiring of any employee. She indicated that criminal background checks for contractors are coordinated by the VolinCor Manager rather than the Human Resources department.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.17 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/201) section 14.0.3 (page 17) specifies that, "Before new employees, contractors or volunteers, who may have contact with offenders, are hired, PSD shall (a) Perform criminal background records checks, consistent with federal, state, and local law."

On 11/08/2018 The Auditor submitted the following query to DOJ:

The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who— (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. Specifically, regarding contractors, what is required to verify that the individual has not been civilly or administratively adjudicated to have engaged in the identified conduct? Generally, a criminal background check would not reveal information regarding administrative or civil actions. However, the preamble to the standards provides some other direction as follows:

Preamble Page 36 –Comment. One commenter requested clarification regarding the scope of the "criminal background check" referenced in the proposed standard. Response. At a minimum, agencies should access the standardized criminal records databases maintained and widely used by law enforcement agencies. The final standard clarifies this requirement by referring to a "criminal background records check."

So, based on this comment / information, is an NCIC check sufficient to determine compliance with this element of the standard or is some other form of verification required (e.g., self-disclosure, review of internal PREA allegation databases, etc.)?

On 11/08/2018, the following response received from the PREA Resource Center:

At a minimum, facilities must conduct a criminal background check before they enlist the services of any contractor who may have contact with inmates. So, yes, the NCIC check would fulfill that requirement. I do not believe the standards require the facility to do more and so for auditing purposes, the auditor would look for completion of the criminal background records check. The only additional requirement is for juvenile facilities which must also consult applicable child abuse registry checks. Given that the PREA standards are the floor, however, a facility may choose to go over and above the minimum required by the standards to help ensure any contractors hired have not engaged in the conduct described in 115.17(a) and sexual harassment as discussed in (b). So, some recommended practices might include asking all contractors to answer questions related to the conduct in (a) and (b) which would be a self-disclosure type practice, consulting applicable adult abuse registries in applicable states, and contacting other institutions where the

contractor has provided services to do a reference check of sorts or as you suggest, a review of internal PREA allegations at the facility and/or agency level. These are all best practices and not required by the standard. The only mandatory requirement of the standard is the criminal background records check.

The VolinCor Manager confirmed the completion of criminal background checks regarding all contractors and volunteers prior to the provision of any services by these individuals. She indicated this is done through CJIC and NCIC systems. As this position is centrally located, she oversees contractor compliance with standard requirements in all facilities, thereby eliminating any confusion if the individual provides services in multiple facilities. She also verifies that any professional credentials required by the position are in good standing. The VolinCor Manager indicated that the new contractor is required to first complete required training but submit to a complete background check before the individual is permitted entry into any facility. This process is generally completed within one month of training completion.

The Auditor was provided with a list of contractors who provide services in the facility. However, this list did not include the agency contracted nurses noted on the schedule provided for Health Services staff. The Auditor subsequently requested a re-review of the contractor list to ensure all applicable individuals were included. The Auditor also requested that information regarding the start dates for each individual be documented in order to determine which individuals were applicable for review under this subsection. As of the date of the writing of this report (03/24/2019), this information had not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a thorough review of all contractors and a system developed to ensure an accurate and up to date list is continuously maintained. Finally, confirmation of the completion of the required criminal background check should be provided for all contractors beginning service since the onset of the facility's documentation period.

UPDATE: Based on the processes and documentation detailed for subsection 115.17 (a), OCCC is now assessed as compliant with the requirements of this subsection.

UPDATE: 09/17/2019 The Auditor received documentation of the completion of background checks 05/30/2019 for the sixteen identified individuals. The Auditor also received information that some of the older background checks could not be located, so they were rerun as a part of this audit. A new process has been established to ensure complete record retention as the agency prepares to conduct required background checks on all employees beginning in 2020. As a result of this documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.17 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.4 (page 17) requires that, "PSD shall conduct criminal background records checks at least every five years for current employees, contractors, and volunteers, who may have contact with offenders. (a) PSD's Personnel's Office is responsible for ensuring compliance with the five-year cycle of background checks for employees. (b) It is noted that PSD does conduct Lautenberg type of background checks on those employment positions that are required to carry a firearm." The Auditor was provided with a blank Criminal History Record Clearance / Certification of Qualification Form to Carry / Possess Firearm or Ammunition form which includes the much more extensive information collected from any armed staff member as part of the criminal records check.

The Human Resources Manager confirmed the completion of Lautenberg checks for all weapons-qualified staff each year that looks for any domestic violence concerns as required by law. She also confirmed the completion of a "PREA records check" for all other employees every five years that includes a review of FBI, NCIC, and local state records.

The Auditor was also provided with six (6) spreadsheets that track criminal background checks being completed on all agency staff by the headquarters HR department. The documents recorded all background checks completed in November 2015 as a part of the system to ensure criminal background checks are completed at least every five (5) years. The Auditor searched for records for the 54 individuals selected for the provision of training transcripts. (It is noted that there were 512 names on list of staff combined from all rosters provided and the Auditor selected every 10th name and added the Warden, Deputy Warden and Major [Chief of Security]). Of these 54, 16 were not included in the criminal background check documentation system. This is 30% of the identified records. Additional documentation was requested to confirm completion of the required criminal background checks for these individuals. It is noted that as of the writing of this report (03/24/2019) this documentation had not yet been received.

Regarding contractors, as noted in previous subsections, the Auditor has not yet received a comprehensive listing of contractors providing services at OCCC. As a result, no documentation of the completion of the required 5-year criminal background checks has been requested.

An interview with the VolinCor Manager indicated that criminal background checks are completed for all contractors at least every two (2) years or more frequently on request. She confirmed that she maintains a local database to track all related reviews.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the review of existing systems and processes to ensure applicable documentation of criminal background checks is maintained for all staff and contractors. Additionally, a thorough review of all contractors should be completed, and a system developed to ensure an accurate and up to date list is continuously maintained.

UPDATE: The Auditor was provided with the hiring packets for the four individuals whose documentation was missing regarding the agency-wide criminal background checks completed. Three (3) of the four (4) individuals had been hired within the last five (5) years, therefore these individuals had current criminal background check confirmation on file. However, the fourth individual had been hired in 2000 and there was no documentation of a criminal background check since that time.

UPDATE: Based on the processes and documentation detailed for subsection 115.17 (a), OCCC is now assessed as compliant with the requirements of this subsection as it pertains to contractors.

115.17 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.7 (page 18) states that, "All PSD staff, who materially omits reporting such misconduct or provide materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge."

The Auditor was also provided with a Standards of Conduct booklet for the Department of Corrections, State of Hawaii, August 1988, which states in part:

All Correctional employees shall enforce and comply with these rules.

All employees shall conduct their private and professional lives in such a manner as to avoid bringing the Department into disrepute.

Correctional employees shall at all times take appropriate action to...enforce all Federal and statutory law violations as well as departmental and branch Rules, Directives, Policies and Procedures, and these Standards of Conduct and report any violations thereof.

Employees are required to be truthful at all times whether under oath or not. Falsification or incomplete submittal of any report, written or oral, is a violation of this rule.

The Auditor asked whether employee performance reviews include interviews or written self-evaluations as part of the reviews to determine if the annual query of all current employees was applicable to OCCC.

As of the writing of this report (03/24/2019), the Auditor had not yet received this information and therefore cannot adequately assess the information needed to determine compliance regarding this subsection.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a review of the employee evaluation process should be conducted to determine if the requirements of this subsection are applicable and if so, develop a system or provide documentation to demonstrate compliance.

UPDATE: The former PREA Coordinator confirmed that performance reviews do not include any form of interview or written self-evaluations as a part of the review. As a result of the provision of this information, OCCC is now assessed as compliant with the requirements of this subsection.

115.17 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.7 (page 18) states that, "All PSD staff, who materially omits reporting such misconduct or provide materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge."

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.17 (h)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.8 and .9 (page 18) requires that, "PSD shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a current or former employee, upon receiving a request from an institutional employer conducting a background check on the employee, preferably with a signed consent to release information form. If the Department Personnel Officer receives such a request from an institutional employer, the request will be forwarded to the Department PREA Coordinator for review and drafting a response."

Per the Program Specialist, there are no current examples of the release of information relative to this subsection. She confirmed that a signed release of information form from the former employee would be required to release such information. Any related documentation would be maintained dependent on where the request for information was submitted, either in the Human Resources files or in the PREA Coordinator files.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Blank Request, Consent and Notification for Fingerprint Clearance for State Civil Service, Non-Civil Service and Exempt Employment form
- Blank Applicant's Consent, Authorization, and Request to Release Information and Waiver form
- Blank form used by the Personnel Management Office to document reviews of conduct for all institutional employers.
- Standards of Conduct booklet for corrections, August 1988
- Standards of conduct for law enforcement 12/13/1993
- Query to DOJ and response from PRC regarding criminal background check requirements for contractors
- Confidential Employer Questionnaire blank form for the documentation of prior institutional employer checks
- Blank Criminal History Record Clearance / Certification of Qualification Form to Carry / Possess Firearm or Ammunition

- Hiring / promotion packets for selected employees
- Documentation of criminal background checks completed by HQ for all agency employees
- Hire packets for randomly selected individuals who were not included in the agency-wide criminal background check process
- 08/28/2019 memo from OCCC OCDW regarding volunteer and contractor lists and authorized entry
- 07/22/2019 memo from the agency Volunteer Coordinator regarding the training, background check, and facility list of contractors and volunteers
- OCCC Daily Program Schedule 09/01/2019 through 09/30/2019
- Listing of Approved Community Programs
- Examples of facility clearance memos
- Documentation of additional criminal background checks conducted

Interviews conducted:

- Headquarters Human Resources Staff
- Volunteer / Contractor Coordinator

Standard 115.18: Upgrades to facilities and technologies

115.18 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)
 Yes No NA

115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.18 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 15.0.1 (page 18) requires that, "When designing or acquiring any new facility, and in planning any substantial expansion or modification of existing facilities, PSD shall consider the impact that the design, acquisition, expansion, or modification will have on PSD's ability to protect offenders from sexual abuse."

Interviews with the Director's designee and the Warden confirmed involvement of the PREA Coordinator in the planning of any substantial expansion or modification of existing facilities.

On the Pre-Audit Questionnaire, the facility disclosed a project involving the renovation of locking system in Module 1. Per the Program Specialist, this project is just a replacement of old locking mechanisms which involves no changes to physical plant layout or operational procedures. As such, it appears that this project is not applicable to this subsection and therefore, the facility has not planned or implemented any substantial expansions or modifications since the date of their last DOJ PREA audit (final report dated 02/07/2017).

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.18 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 15.0.2 (page 18) requires that, "When installing or updating a video monitoring system, electronic surveillance system. Close circuit

television (CCTV), or other monitoring technology, PSD shall consider how such technology may enhance the agency's ability to protect offenders from sexual abuse."

In an interview, the Director's designee confirmed that OCCC relies on CCTV systems as well as walk through tours by staff, grievances, kites, calls, letters, etc. to monitor offender and staff activities and interactions as well as to address any red flags or allegations of sexual abuse and/or harassment. The Warden confirmed that sexual safety would be taken into account when planning any modifications or expansions of video monitoring technology.

There have been no installations of new or modifications / expansions to existing video monitoring systems, electronic surveillance systems, or other monitoring technology since the facility's last DOJ PREA audit. The final report for this audit was dated 02/07/2017. It is noted that the staffing plans for 2017 and 2018 note camera system upgrades in work. In an interview with the warden, it was learned that this is a continuation of a project started several years ago, before the last audit. This project has been delayed on several occasions due to the limited number of contractors available in the community to complete the identified work. As a result of this review, it was determined that there are no video monitoring projects applicable to this standard.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Director's Designee
- Warden

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

115.21 (a)

- If the agency is responsible for investigating allegations of sexual abuse, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)
 Yes No NA

115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) Yes No NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)
 Yes No NA

115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? Yes No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? Yes No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? Yes No
- Has the agency documented its efforts to provide SAFEs or SANEs? Yes No

115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? Yes No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? Yes No

- Has the agency documented its efforts to secure services from rape crisis centers?
 Yes No

115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? Yes No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? Yes No

115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating entity follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.) Yes No NA

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.] Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.21 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.3 (page 19) indicates that, "PSD utilizes departmental evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and preserves the crime scene for criminal investigations and prosecutions."

The Auditor was provided with a presentation entitled, "Administrative Investigation" which was developed by the Internal Affairs Office, Investigations Unit. The presentation addressed topics such as management of a crime scene, crime scene preservation; transfer theory; classification of evidence; and seizure, tagging and recording of evidence.

Staff interviewed were generally familiar with evidence collection procedures established by the agency. They were also able to articulate appropriate first responder activities, to include separation of the involved individuals, preservation of the crime scene and related evidence, and protection and care of the victim. The only staff who appear to struggle with the questions were non-custody staff who indicated they would rely on custody staff for evidence collection. All staff were familiar with individuals who would be responsible for the conduct of administrative investigations.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.21 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.3 (page 19) indicates that, "PSD utilizes departmental evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and preserves the crime scene for criminal investigations and prosecutions."

The noted source of the evidence protocol was confirmed in discussion with investigators from the Internal Affairs Unit. It is noted that OCCC does not house youthful offenders and therefore would not be involved in the collection of evidence involving juvenile victims or perpetrators.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.21 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.4 through .7 (page 19) stipulates that, "The Health Care Division staff shall determine, based on evidentiary or medical needs, whether a victim of sexual abuse will be transported for a forensic medical examination at the Sex Abuse Treatment Center ('SATC') or at a hospital emergency unit. This shall be at no financial cost to the victim. In facilities without twenty-four (24) hour medical, then the on-call physician shall be contacted. The use of Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) are utilized at SATC. On the outer islands, a comparable program is utilized. If a SAFE or SANE is not available, the examination may be performed by other qualified medical practitioners. The SATC and its contracted representatives on the outer islands have indicated that victim advocates are available during an examination. PSD medical and mental health practitioners shall follow-up on the prescribed treatment plan or develop a plan for the offender victim. If SATC recommends on site counseling services for offenders, then this shall be coordinated by PSD medical and mental health practitioners."

For all forensic medical examinations, the agency and facility defer to experts at designated Sex Abuse Treatment Centers and/or medical emergency departments to provide SANEs or SAFEs. For OCCC, the emergency medical center is identified as the Kapiolani Medical Center for Women and Children (KMCWC). In order to ensure the conduct of these examination by a SAFE/SANE, offenders are transported to KMCWC where, on arrival, the individual is medically cleared through a physician, and then the police department is notified. The SAFE/SANE nurse will then provide the police department with exam results. Emergency Room staff do not conduct forensic medical examinations. The agency maintains a contract with the Sex Assault Treatment Center through KMCWC that reads in part, "The SATC will provide oversight and maintain compliance with state public funds to deliver sexual assault services throughout the Hawaiian Islands."

In a telephone interview, the SAFE/SANE contracted at KMCWC confirmed that they perform all forensic medical examinations for all of the facilities on Oahu. She indicated that they are physician-based forensic medical examiners who work on contract and have never had an issue when someone wasn't available for response.

There were no allegations at OCCC that indicated a forensic medical examination in the 12 months included in the documentation for Auditor review. However, during January 2019, an offender reported

an allegation of rape and was transported to the emergency room via ambulance. The Auditor was provided documentation confirming the examination and the provision of advocacy support.

However, during a review of the allegation / investigation packets provided, the Auditor located four (4) additional instances in which either (1) the documentation provided indicated the offender had been transported to the community health care facility for what appeared to be a forensic medical examination, or (2) the documentation detailed an incident in which the allegation may have indicated the need for a forensic medical examination. The Auditor requested additional clarification regarding what factors determine if an offender receives such as examination and documentation of additional examinations provided. As of the date of the writing of this report (03/24/2019), this information had not been received.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "The Health Care Division staff shall determine whether a victim of sexual abuse will be transported for a forensic medical examination at the Sex Abuse Treatment Center (Kapiolani Medical on Oahu) or at a hospital emergency unit. This will be at no financial cost to the victim."

Based on the lack of documentation requested by the Auditor regarding four (4) allegation / investigation packets, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a review of all applicable allegation packets and provision of the requested information to the Auditor; and (2) the implementation of a record keeping system to ensure all applicable documentation is accessible to more than one individual within the facility (e.g., backup systems in the event the one identified individual is not available).

UPDATE: The Auditor was provided with documentation for five (5) allegations / investigation packets that indicated a possible forensic medical examination (one was added since the issuing of the interim report). Documentation confirmed completion of an exam when based on the assessment of a nurse, physician, or on-call physician, the exam was warranted. Documentation illustrated provision of the exam in four (4) of the five (5) instances, with the last not being transported after the offender recanted the original allegation. Based on the above, OCCC is now assessed as compliant with the requirements of this subsection.

115.21 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.8 (page 19) requires that, "At the request and approval of the victim, a victim advocate from the SATC or SATC contracted provider on the outer islands shall be provided to support the victim through the forensic medical examination process and the investigatory interview. The purpose of a victim advocate is to provide emotional support, crisis intervention, information, and referrals."

The agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015. This agreement expired 06/30/2017. A second agreement (18-HAS-01) extends the previous contract until 06/30/2019.

The agreement includes, but is not limited to the following services:

- *Crisis intervention services need to be available 24 hours a day, 365 days a year. A 24-hour hotline will provide the sexual assault victim and the community, immediate access to care both over the phone and in-person. In addition to crisis counseling, victims often require medical-legal care and assistance with reporting options. A Sexual Assault Response Team (SART) should be on call around the clock and staffed with personnel specifically trained to provide crisis support services to victims. Such services include crisis stabilization and counseling, legal systems advocacy to inform the victim of legal rights and options, an acute forensic examination to provide the victim the necessary medical assessment and treatment, and the collection and preservation of forensic evidence if the victim decided to take criminal action.*

- *In situations where a victim has been sexually assaulted and is need of medical-legal services, the program worker will respond to the examination site to provide the comprehensive services of crisis stabilization and counseling, legal systems advocacy to inform the victim of legal rights and options, and assistance with and support during the acute forensic examination. Support will be offered to the victim's family/support system as well. Prior to ending the medical-legal contact, the program worker will discuss follow-up care and provide information about ongoing counseling services available.*
- *The Clinical Program Manager is on call 24 hours a day, 7 days a week and is readily available to handle any urgent client care issues.*

Interviews with representatives from the Kapiolani Medical Center and OCCC confirmed an understanding of the services provided and response expected under the noted MOU. Specific information regarding the provision of services to offenders was not available as messages left for the individual responsible were not returned as of the writing of this report. A member of the Audit Team did speak with one individual from the center who confirmed the basics regarding service provision per the contract, but no additional information was provided. The PCM confirmed in an interview that SATC provides victim advocacy support for offenders, reporting that the hospital automatically calls the advocate whenever a forensic examination is conducted. He also confirmed that offenders can reach out for additional services via a speed dial number available on through the telephone system. It is noted that reporting offenders who were interviewed were unaware of the availability of these services. As a result, it is recommended that additional information be provided to all offenders who receive forensic medical examinations.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.21 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.8 (page 19) requires that, "At the request and approval of the victim, a victim advocate from the SATC or SATC contracted provider on the outer islands shall be provided to support the victim through the forensic medical examination process and the investigatory interview. The purpose of a victim advocate is to provide emotional support, crisis intervention, information, and referrals."

The agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015. This agreement expired 06/30/2017. A second agreement (18-HAS-01) extends the previous contract until 06/30/2019. The agreement includes, but is not limited to the following services:

- *Legal systems advocacy will be provided to support individuals as they face the criminal justice process. Program staff will inform victims of their legal rights and options, and will be available to support during the police reporting process, if desired.*
- *In situations where a victim has been sexually assaulted and is need of medical-legal services, the program worker will respond to the examination site to provide the comprehensive services of crisis stabilization and counseling, legal systems advocacy to inform the victim of legal rights and options, and assistance with and support during the acute forensic examination. Support will be offered to the victim's family/support system as well. Prior to ending the medical-legal contact, the program worker will discuss follow-up care and provide information about ongoing counseling services available.*

If an individual arrives at the hospital in need of a forensic medical examination, the individual is medically cleared through a physician, and then the Honolulu Police Department (HPD) is notified. Per the former PREA Coordinator, the established contract with KMCWC includes provision of services to all community members on all islands. The Sex Assault Treatment Center (SATC), which is a part of KMCWC, conducts all needed forensic medical examinations. They also provide advocacy support services to all offenders.

All interactions with these community-based advocates are confidential and not disclosed without the written release / permission of the offender.

There were no allegations at OCCC that indicated a forensic medical examination in the 12 months included in the documentation for Auditor review. However, during January 2019, an offender reported an allegation of rape and was transported to the emergency room via ambulance. The Auditor was provided documentation confirming the examination and the provision of advocacy support. Additionally, knowledge of procedures and services was confirmed in interviews with facility staff.

However, during a review of the allegation / investigation packets provided, the Auditor located four (4) additional instances in which either (1) the documentation provided indicated the offender had been transported to the community health care facility for what appeared to be a forensic medical examination, or (2) the documentation detailed in incident in which the allegation may have indicated the need for a forensic medical examination. The Auditor requested additional clarification regarding what factors determine if an offender receives such as examination and documentation of additional examinations provided. As of the date of the writing of this report (03/24/2019), this information had not been received.

It is noted that reporting offenders who were interviewed were unaware of the availability of these services. As a result, it is recommended that additional information be provided to all offenders who receive forensic medical examinations.

Based on the lack of documentation requested by the Auditor regarding four (4) allegation / investigation packets, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a review of all applicable allegation packets and provision of the requested information to the Auditor; and (2) the implementation of a record keeping system to ensure all applicable documentation is accessible to more than one individual within the facility (e.g., backup systems in the event the one identified individual is not available).

UPDATE: The Auditor was provided with documentation for five (5) allegations / investigation packets that indicated a possible forensic medical examination (one was added since the issuing of the interim report). Documentation confirmed completion of an exam when based on the assessment of a nurse, physician, or on-call physician, the exam was warranted. Documentation illustrated provision of the exam in four (4) of the five (5) instances, with the last not being transported after the offender recanted the original allegation. Per the Program Specialist, an offender may request the assistance of a victim advocate when they are at the medical center. This provision is not documented as it is dependent on the expressed wishes of the offender after being provided applicable information by SATC staff (SAFE/SANE). Regarding the provision of an advocate during investigatory interviews, the Auditor was informed that the offender may request such support through the investigator or during a mental health follow up appointment. It was noted by the Program Specialist that no such requests were made by applicable OCCC offenders during the audit documentation period. Based on the above, OCCC is now assessed as compliant with the requirements of this subsection.

115.21 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.9 (page 19) requires that, "PSD shall ensure that internal investigations comply with the above requirements [regarding evidence protocols and forensic examinations] and external investigative entities (County LE) have procedures in place to comply with the above requirement."

Facilities maintain a collaborative relationship with local law enforcement and no issues regarding response have been reported. Facility officials meet regularly with representatives from law enforcement to ensure applicable processes are in place, to share training resources and information, and to address any ongoing investigations. Additionally, investigators from the agency's Internal Affairs Unit are sworn peace officers and therefore able to conduct criminal investigations as well. This unit maintains a very

collaborative relationship with law enforcement officials throughout the state, ensuring a thorough understanding of each other's policies and procedures regarding all aspects of their respective organizations, not just those related to PREA.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.21 (g)

The agency conducts all administrative investigations. All criminal investigations are conducted by county law enforcement officials with the exception of Honolulu-based facilities, where criminal investigations are conducted by the Honolulu Police Department. These are all county and local law enforcement organizations and, as such, no investigations are conducted by either any state or Department of Justice component.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.21 (h)

The agency has an agreement with the Kapiolani Medical Center for Women and Children, Sex Assault Treatment Center which always includes in-person services available to sexual assault victims, 24-hours per day, 365 days per year. As a result, use of qualified staff to fulfil advocate roles is not applicable or needed.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015 and expired 06/30/2017
- Agreement with the Kapiolani Medical Center for Women and Children, Sex Abuse Treatment Center (KNCWC-SATC) (18-HAS-01) which extends the previous contract until 06/30/2019
- Documentation packet regarding the 01/2019 allegation of rape that resulted in a forensic medical examination
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Documentation for the medical records of applicable offenders demonstrating the completion of a forensic medical examination and the provision of trauma / crisis care and related follow up

Interviews conducted:

- Random Sample of Staff
- SAFE/SANE
- PREA Compliance Manager
- Offenders who Reported Sexual Abuse

Standard 115.22: Policies to ensure referrals of allegations for investigations

115.22 (a)

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse? Yes No
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment? Yes No

115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? Yes No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? Yes No
- Does the agency document all such referrals? Yes No

115.22 (c)

- If a separate entity is responsible for conducting criminal investigations, does such publication describe the responsibilities of both the agency and the investigating entity? [N/A if the agency/facility is responsible for criminal investigations. See 115.21(a).] Yes No NA

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.22 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act*, (09/22/2017), section 17.01, .2, and .5 (pages 19 – 20) states, “PSD ensures that an internal administrative investigation and an external referral for criminal investigation are completed for all allegations of sexual abuse and sexual harassment with the limitation that any criminal referral for sexual harassment must meet a criminal standard...PSD Internal Affairs Office (‘IA’) shall be immediately notified of any allegation of sexual abuse or potentially serious

incident of sexual harassment. The administrative investigation may be complete by IA or at the facility level pursuant to an order of the Director or his/her designee.”

An email was received from Just Detention International (JDI) dated 11/29/2018 confirming that JDI has not received any allegation information or reports of issues regarding offender sexual safety at OCCC in the past 12 months.

An interview with the Director’s designee confirmed that an administrative investigation is conducted for every allegation received. She reported that the Warden initiates the investigation, generally assigning it to the PCM, and then makes findings following a review of the completed investigation report. She also confirmed that the Honolulu Police Department is responsible for all criminal investigations.

Per the documentation provided by the facility, there were a total of thirty-six (36) allegations received. However, at the time of the on-site review, investigations had been completed for only five (5) of these allegations. Per the Program Specialist, the facility is currently completing the investigations. It appeared as if it lingered there as changes in the staffing of the PCM and Chief were done. Each facility PCM keeps their log where they are responsible for following up on the investigations but this log was not available when the current PCM assumed responsibilities.

Based on the number of open / incomplete investigations, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) prompt completion of all outstanding investigations and (2) the implementation of a process to ensure all future allegations are promptly investigated and documentation is maintained in a manner that investigations are not dependent on the presence of the PCM.

The Auditor should also be provided with all allegations received and investigations completed from January 2019 throughout the corrective action period to ensure systems established are fully functional and to be able to review them for information applicable to this report.

UPDATE – To address the identified issues regarding investigations, the Warden implemented a new process for the assignment and tracking of all allegations and resulting investigations which reads in part:

- *The Watch Commander will then assure that all reports, statements, HPD report numbers and checklists are submitted to the [Chief of Security] for review and issuance for investigation.*
- *Investigations are logged in a database within a 45-day processing (inmate-on-inmate_ from the date of allegation to finding in accordance with the adjustment process. Staff investigations may take longer due to CBA, Garrity warnings/clauses, etc.*
- *Upon completion of investigations, [the PCM] will be given a copy to notify inmate and initiate a sexual abuse review where warranted. This process would also include the inmates 90-day monitoring and follow up with local law enforcement for updates on criminal investigations.*

To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are investigated in a timely manner, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the process. The Captain provided oversight, training, review, and investigation assistance as needed. The Auditor was also provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. Finally, three (3) additional staff were trained as investigators and the PREA Coordinator provided refresher training regarding investigations to all individuals who were designated as facility investigators.

Based on the implementation of the revised process, the number of investigations completed, and the oversight and training provided to applicable staff, OCCC is now assessed as compliant with the requirements of this subsection.

115.22 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 17.0.2, .4, and .6 require, "All external referrals for a criminal investigation shall be processed through a county LE agency, such as Honolulu Police Department, Maui Police Department, Kauai Police Department, and Hawaii Police Department...If an allegation of sexual abuse or sexual harassment involves potentially criminal behavior, then the allegation shall be immediately referred to a county LE agency...PSD publishes the Department policy, ADM.08.08, Prison Rape Elimination Act on the official department website at www.hawaii.gov/psd."

The Auditor confirmed that the noted policy is posted to the agency's public website.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "If an allegation of sexual abuse or sexual harassment involves potentially criminal behavior, then the allegation shall be immediately referred to County Law Enforcement (HPD, MPD, KPD, HiPD). PSD IAO [Internal Affairs Office] must also be immediately notified of any allegation of sexual abuse or potentially serious incident of sexual harassment."

Documentation was reviewed relative to the 36 allegations received by OCCC during 2018. Allegation packets and/or investigation reports included applicable referrals to local law enforcement officials. Additionally, staff interviewed throughout the on-site review were knowledgeable about the requirement to refer any potentially criminal allegations to the Honolulu Police Department.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.22 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0 (pages 38 – 39) details responsibilities for the completion of administrative and criminal investigations, noting that, "The county LE agency for each island is delegated with conducting all criminal sex abuse and criminal sexual harassment investigations. The county LE agency is charged with the responsibility to make the required referrals for criminal prosecution, if warranted." The Auditor confirmed that this policy is posted to the agency's public website at www.hawaii.gov/psd.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.22 (d)

Criminal investigations are conducted by county law enforcement officials with the exception of Honolulu-based facilities, where criminal investigations are conducted by the Honolulu Police Department (HPD). OCCC is a Honolulu based facility and, as such HPD is the responsible criminal investigatory entity.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.22 (e)

No Department of Justice component is responsible for conducting administrative or criminal investigations.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Hawaii Department of Public Safety public website at www.hawaii.gov/psd
- Email from Just Detention International dated 11/29/2018 confirming no reports of allegations of issues regarding offender sexual safety at OCCC

- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017.
- Allegation and/or investigation packets for all 36 allegations reported during 2018
- 09/13/2019 memo from the Warden detailing the revised investigation process
- Documentation of the dispatching of a Captain to OCCC to assist in the investigation process
- Documentation of investigator training completion for three (3) additional staff
- Documentation of investigation refresher training completion
- Investigation reports as noted in above narrative

Interviews conducted:

- Director's Designee
- Investigative Staff

TRAINING AND EDUCATION

Standard 115.31: Employee training

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? Yes No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment Yes No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? Yes No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? Yes No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? Yes No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? Yes No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? Yes No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? Yes No

115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility? Yes No
- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa? Yes No

115.31 (c)

- Have all current employees who may have contact with inmates received such training?
 Yes No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? Yes No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? Yes No

115.31 (d)

- Does the agency document, through employee signature or electronic verification, that employees understand the training they have received? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.31 (a)

Agency policy ADM.08.08, Prison Rape Elimination Act (09/22/2017) section 18.0.1 and .3 (page 20 – 21) states, "PSD provides a comprehensive training module for all staff emphasizing PSD's zero-tolerance policy and the importance of preventing sexual abuse/sexual assault and sexual harassment toward offenders. PSD educates staff about the serious impact of offender sexual victimization within a correctional setting. All PSD staff who may have contact with offenders are trained on (a) PSD's zero-tolerance policy for offender sexual abuse and sexual harassment; (b) How to fulfill their responsibility under PSD's sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;(c) Offenders' rights to be free from sexual abuse and sexual harassment; (d) The right of offenders and staff to be free from retaliation for reporting sexual abuse and sexual harassment; (e) The dynamics of sexual abuse and sexual harassment in confinement; (f) The common reactions of victims of sexual abuse and sexual harassment; (g) How to detect and respond to signs of threatened and actual sexual abuse; (h) How to avoid inappropriate relationships with offenders based on staff over familiarity and fraternization; (i) How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders; and (j) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities."

The Auditor was provided with Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. The required standard elements were included in the training as follows:

- (1) Its zero-tolerance policy for sexual abuse and sexual harassment; (located on pages 9, 27 and 81)
- (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;

- (3) Inmates' right to be free from sexual abuse and sexual harassment;
- (4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with inmates;
- (9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Staff interviews while on site confirmed completion of training and a knowledge of the required topics.

In the original documentation provided to the Auditor on the flash drive was included a training log, reported to list out all OCCC employees and their training completion dates. An analysis of this document revealed the following:

- There are 704 staff listed on the report, but the roster received indicated 512 staff and the PAQ indicated 500 staff.
- The Chief of Security was not included on the list, leading the Auditor to question who else wasn't included on the list.
- The Auditor deleted a total of 22 individuals who were listed as TDI (temporary disability), ML (military leave), DET (detached to another facility) or WC (workers compensation).
- The above deduction left a total of 682 staff on the list. The document indicates that a total of 45 individuals (6%), including the Warden, have no training dates entered into the log, possibly indicating the individual has never completed the required training.
- Of the 682 remaining on the list, 331 don't have training dates in 2018 (to include those with no training dates indicated). The Auditor received information that training requirements are determined on an individual basis, that formal training is required every two years from the last date the individual completed training. As a result, the Auditor did additional analysis to flag staff as compliant if a 2017 training date was documented. This only resulted in a decrease in the number of staff non-compliant from 331 to 317, leaving an overall non-compliance percentage of 46%.

The Auditor was provided with training transcripts for randomly selected staff members. It is noted that 512 names were on total list of staff combined from all rosters provided. The Auditor selected every 10th name from the list and added the Warden, Deputy Warden and Major (Chief of Security). This resulted in a request for training transcripts for a total of 54 staff members. The Auditor was provided with training transcripts for these individuals. Analysis showed that 19 of the 54 records reviewed did not include PREA training completion dates in 2017 or 2018, providing a 35% non-compliance rate. Of these 54 individuals, 5 had no documentation of any PREA training completion at all. The training transcripts for these individuals went back to 2004, 1996, 2009, 1996, and 2007 respectively.

Finally, the Auditor was provided with the tracker document maintained by the Training Sergeant assigned to the facility, which documented a total of 549 staff assigned to the facility. Of these, 135, or 40%, did not have PREA training completion dates in 2017 or 2018.

It is noted that the former PREA Coordinator provided the Auditor with a listing of OCCC budgetary staffing per Headquarters Human Resources. That listing shows 523 staff. Regardless of the staff listing used, training compliance needs to be addressed at the facility. However, the discrepancies in the number of staff assigned to the facility by the keeping of various lists needs to also be addressed before the facility can be sure it is bringing training into compliance.

Of particular concern was the training completion for the facility's executive staff. Two of the individuals had not completed any form of PREA training as documented in transcripts, while the third only completed PREA training once in 2016. This may be as a result of incomplete transcripts but may be indicative of the culture of the facility and the emphasis placed on PREA training. It is difficult to require training completion for line-level staff when the executive level staff have not met the same requirements.

Based on the various calculated compliance rates regarding staff training completion, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) ensuring an accurate consolidated listing of all staff assigned to the facility is in place and (2) providing training to all staff who are delinquent in completing requirements.

UPDATE: On 07/02/2019, the Auditor was provided with an updated training tracking spreadsheet, training acknowledgement forms for those who had completed training, and special orders mandating attendance at training for those individuals who had not yet completed training. As of the date of receipt, training completion remains insufficient to assess this subsection as compliant.

Information was received by the former PREA Coordinator regarding the process being implemented to address identified training tracking issues.

Based on the training concerns raised from OCCC's PREA Audit, the matter was discussed with the Deputy Director of Administration...The Training and Staff Development (TSD) Academy is currently under the Administration Division's organization chart. The Deputy Director has initiated a committee to outline all training requirements from Correction to Law Enforcement to Civil Servants. The first phase is developing a schedule of all training requirements for all positions throughout PSD. Once identified, then all staff's training records will be merged into this new record keeping system, which eventually will result in monthly list of soon to be expiring trainings for staff. It will then be TSD and the program's responsibility to ensure attention and completion of the required training by the staff member. This is our methodology to ensure training schedules vs. by programs individually.

UPDATE: 7/29/2019 The Auditor received an updated training log as of 07/29/2019 along with additional documentation of training completion. The Auditor is using 523 as the number of staff as this is what was provided by HR through the former PREA Coordinator. 213 individuals are highlighted on the report as needing training completed. Of these, 22 could be deleted as the individual is on extended leave (FLMA, military, workers comp, etc.). Compliance was calculated as follows: $523 - 22$ on extended leave = 501 current staff requiring training; 191 of these have not completed required training; leaving a non-compliance rate of 38%, which is insufficient to bring the standard into compliance.

UPDATE: 08/20/2019 The Auditor received an updated training log as of 08/19/2019 along with additional documentation of training completion. The Auditor is using 523 as the number of staff as noted above. 220 are highlighted on the report as needing training, which is higher than the report provided 07/29/2019. Of these, the Auditor deleted a total of 34 individuals as being away from the facility (22 worker's compensation, 1 transferred, 1 reassigned, 1 administrative leave, 1 sabbatical, 3 military leave, 3 family medical leave, and 2 retired). Compliance was calculated as follows: 220 incomplete less 34 as noted = 186 training incomplete out of 489 possible ($523 - 34$) = 38% of OCCC staff have not yet completed PREA training requirements.

UPDATE: 08/30/2019 The Auditor received an updated training log as of 08/30/19. The Auditor is using 523 as the number of staff as noted above. 222 are highlighted on the report as needing training, which is higher than the reports provided previously due to 2 additional staff being noted as out on worker's compensation. Of these, the Auditor deleted a total of 36 individuals as being away from the facility (24

worker's compensation, 1 transferred, 1 reassigned, 1 administrative leave, 1 sabbatical, 3 military leave, 3 family medical leave, and 2 retired. Compliance was calculated as follows: 222 incomplete less 36 as noted = 186 training incomplete out of 487 possible $(523 - 36) = 38\%$ of OCCC staff have not yet completed PREA training requirements.

UPDATE: 09/13/2019 The Auditor received an updated training log as of 08/30/2019 with entries clarified and corrected along with additional Acknowledgement of Training forms. The Auditor is using 523 as the number of staff as noted above. A total of 55 of staff are documented as being away from the facility as follows:

- 1 - sabbatical
- 10 – close of business (signifying retirement)
- 2 - retired
- 3 – family medical leave
- 1 – administrative leave
- 6 – reassigned / detached to another facility
- 5 – military leave
- 27 – worker's compensation

The updated spreadsheet documents the completion of PREA training sometime during 2018 (when full training was required) for all but 17 staff (14 - training completed in 2017; 3 – staff on annual leave / vacation) of the remaining 468 staff, leaving an overall training compliance rate of 96%. Per information received from the Program Specialist, those individuals noted with “corrective action” dates are the dates training was completed. Based on this updated information, OCCC is now assessed as compliant with the requirements of this subsection. It is recommended that OCCC develop sustainable practices to ensure all training requirements are met on an ongoing basis.

115.31 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.2 (page 21) indicates that, “PSD’s staff training is tailored to address all genders of offenders in a correctional facility; therefore, additional training is not required when a staff member transfers to a different gender facility.” The most recent training provided to all staff (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017) was reviewed. Training includes information applicable to both male and female inmates and as such, OCCC has exceeded the gender-specific training requirement of this subsection.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.31 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.3, .6 and .7 (pages 21 - 22) requires, “The Warden, PSD Administrators, or Sheriff shall ensure that all current staff have received PREA training. The Warden or Sheriff shall notify the Department’s Training and Staff Development Office (TSD) and the PREA Coordinator of any individual who requires training...The Warden, Sheriff, or TSD staff shall provide each staff member with a refresher PREA training every two (2) years to ensure that the staff member is aware of PSD’s PREA policy related to offender sexual abuse, offender sexual harassment, and any retaliation for reporting or assisting in an investigation. In years when the staff member does not receive the refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies through the PSD website, handouts, posters, memorandums, etc.”

Overall staff training compliance rates were detailed with subsection 115.31 (a). To provide information in the “in-between” years, the Department of Public Safety Director issued, “A formal reminder to all

Department of Public Safety (PSD) staff of the requirements of the Prison Rape Elimination Act (PREA).” The memo includes a reminder about zero tolerance and the mandating of “...prevention, detection, elimination, reporting, and investigation of reports by inmate victims of sexual abuse and sexual harassment.” The facility does not maintain any documentation acknowledging staff receipt of this information, however, this is not a requirement of the standard.

Based on the training compliance issues identified with subsection 115.31 (a), OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) ensuring an accurate consolidated listing of all staff assigned to the facility is in place and (2) providing training to all staff who are delinquent in completing requirements.

UPDATE: Comments included with 115.31 (a) detail actions taken during the corrective action period to bring staff training into compliance with standard requirements. As of 09/13/2019, the facility demonstrated a training compliance rate of 96%, bringing OCCC into compliance with the requirements of this subsection.

115.31 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.4 and .5 (page 21) indicates that, “PSD training sign-in sheets are verification that the staff member received and understood the PREA training. The sign-in sheet shall include the following statement, ‘By signing this attendance sheet you acknowledge receipt of PREA Training and that you understood the PREA Training materials.’ The sign-in documentation substantiates that the staff member has completed the required training and his/her completion shall be entered on the staff member’s record with TSD. A copy shall also be provided to the PSD PREA Coordinator via email, fax, or mail within three (3) days.”

Upon completion of training, the employee must sign “Acknowledgement of Training Received” form once training has been completed. This form requires the participant to “acknowledge that I received training on the subject matter indicated” but does not require an acknowledgement of an understanding of the training as required in the standard. A query was submitted to the PREA Resource Center (PRC) to assess whether this was sufficient to meet the acknowledgement requirement of this sub-standard. 11/07/2018 per email from the PRC “Both requirements under 115.31 and 115.32 specifically state the employee, volunteer or contractor’s understanding of the training received must be documented...The standards do require documentation of understanding for the training received. The statement documenting the received training is understood is relevant to the entire training, not only to specific questions on the content of the training. This should be an affirmative acknowledgement from the employee, volunteer and contractor that the training had been both received and understood.”

However, from the documentation provided, it appears that the facility created its own acknowledgement form which reads, “I understand that I have a duty to report any suspicious or actual sexual misconduct to my immediate supervisors and to report factual information as required by the departments Standards of Conduct.” This acknowledgement form was included in 46 of the 54 training records reviewed. It is noted that of the nine missing, five of the individuals had not completed PREA training as documented in their transcript and, therefore, would not have signed the related acknowledgement form.

The Auditor received Inter-Office memorandum Acknowledgement of Training forms for 46 of the 54 requested training transcripts. The acknowledgement forms read, “I understand that I have a duty to report any suspicious or actual sexual misconduct to my immediate supervisors and to report factual information as required by the departments Standards of Conduct.” However, forms do not include the statement, “By signing this attendance sheet you acknowledge receipt of PREA Training and that you understood the PREA Training materials,” as required in policy. There is nothing on the form to indicate the participant understands all of the elements of PREA that are presented PREA training and therefore, does not comply with standard or policy requirements.

Per the former PREA Coordinator, she was unaware that the training department made changes to the acknowledgement systems previously in place. She has received an acknowledgement that the sign-in sheets have been modified to the old format and will provide documentation of same.

Based on the current acknowledgement form language, this subsection is found to be non-compliant and requiring corrective action. Corrective action should include (1) confirmation of the revision to the language on official sign-in sheets and (2) completion of rosters in the 2019 training identified above with the required acknowledgement included.

UPDATE: In a review of training curriculum conducted with the former PREA Coordinator, it was learned that the training provided to staff includes the following statement, "By signing the PREA training attendance sheet, you are acknowledging receiving PREA training and that you understand the PREA training materials." With the inclusion of this acknowledgement in the curriculum, OCCC is assessed as compliant with the requirements of this subsection. It is recommended that the agency continue to revise rosters to ensure the inclusion of the required language as noted in policy to support and enhance the language included in the curriculum. The Auditor was also provided with examples of the "Acknowledgement of Training" form completed by individuals participating in the corrections familiarization course (new hire training) which included the revised language, "By signing, I acknowledge receipt of PREA training and understand the materials presented."

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Acknowledgement of training received (blank form)
- Query submitted to DOJ regarding acknowledgement of an understanding of training received and response from DOJ
- Department of Public Safety Director dated 10/25/2018 regarding zero tolerance and reporting along with a re-issuing of the memo regarding fraternization between staff and inmates
- Examples of the Acknowledgement of Training form from the corrections familiarization course (new hire training)
- Updated training tracking spreadsheet, additional examples of training acknowledgement forms, and an 07/01/2019 special order for mandatory attendance at training for those individuals who still showed as incomplete
- 07/15/2019 email from former PREA Coordinator regarding training reorganization
- Multiple training tracking spreadsheets and associated Acknowledgement of Training forms

Interviews conducted:

- Random Sample of Staff

Standard 115.32: Volunteer and contractor training

115.32 (a)

- Has the agency ensured that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures? Yes No

115.32 (b)

- Have all volunteers and contractors who have contact with inmates been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)? Yes No

115.32 (c)

- Does the agency maintain documentation confirming that volunteers and contractors understand the training they have received? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.32 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 19.0.1 and 3 (page 22) requires that, "All volunteers and contractors who have contact with offenders shall be trained on PREA, PSD's policy, and their responsibilities regarding the prevention, detection, and how to respond to a report of offender sexual abuse and sexual harassment...The staff member responsible for training volunteers, or the staff member who contracts on behalf of PSD or the facility, shall ensure that all volunteers and contractors are trained on their responsibilities regarding offender sexual abuse and sexual harassment."

Training curriculum, *Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017, is used for volunteers and contractors who provide 20 or more hours of service per week and is the same training provided to agency employees. This training incorporates the standard-required elements, including, but not limited to, definitions, zero tolerance, key provisions of PREA, first responder duties, screenings, incident review, and how to fulfill your responsibilities regarding sexual abuse and sexual harassment.

A review of the training curriculum, *Prison Rape Elimination Act of 2003 PREA Volunteer and Contractor Training*, which is used for volunteers and contractors who provide less than 20 hours of service per week, revealed that the standard-required elements are incorporated, to include zero tolerance, red flags, duty to report, deliberate indifference, time limitations, first responder duties, and disciplinary sanctions.

The Auditor was provided with the following documents that all volunteers and contractors are required to review and sign before they are scheduled to attend the required VolinCor training:

- A synopsis of PREA legislation that volunteers and contract staff are required to review and sign. This document addressed prohibited acts, including consensual sexual behavior between inmates and staff; immediate reporting requirements, regardless of timeframes, anonymous reports, and/or hearsay information, the Department's zero tolerance policy; and a warning that failure to report is a violation of federal and state law that could result in administrative, civil, and/or criminal proceedings. The individual is required to sign a statement that states, "I have received, read, and understood the rules and regulation regarding PREA. I agree to maintain a professional relationship with inmates at all times and to immediately report all PREA violations. I understand that all PREA violations are mandatory reporting, and my failure to do so may result in legal or civil actions being taken against me, including termination."
- A "Mandatory Reporting" form, which includes information regarding mandatory reporting of all allegations, and child and/or vulnerable adult abuse or neglect. The form reads, in part, "The Department of Public Safety has a zero tolerance for the abuse of inmates, including sexual harassment and abuse. Staff need to always be pro-active and diligent in ensure the humane treatment and protection of inmates; as well as assuring safety for the inmates, staff and public. I have received, read and understand the rules and regulations regarding mandatory reporting (If you knew...or should have known...you are mandated to report). I agree to report all issues and situations required by law, Department policy, or rule. I also agree to abide by all the rules of the Department of Public Safety. I understand that my failure to do so may result in legal or civil action being taken against me, and/or termination."
- "Confidentiality" form, which addresses the meaning of confidentiality, the requirement to inform offenders that any information shared could be reported to the individual's supervisor, and that offenders should be reminded that the individual is "...required to immediately report any and all information that is shared pertaining to threats of harm against another person; plans of escape and riots; drugs, suicide, PREA and other illegal activities within the institution." The form reads, in part, that "Giving out information without proper authorization, or failure to immediately report required information, is a major breach of security and may be subject to disciplinary action. I have received, read, and understand the rules and regulations regarding confidentiality. I agree to maintain confidentiality regarding inmates, staff, and security; and abide by all the rules of the Department of Public Safety. I understand that my failure to do so may result in legal or civil action being taken against me, and/or termination."
- "Code of Ethics" form, which includes the requirement that, "I will not engage in undue familiarity with inmates, former inmates and their families. I will report any corrupt or unethical behavior of a fellow correctional staff member that could affect an inmate, or the integrity of the DPS." The form also states, in part, "I have read the Code of Ethics and clearly understand its meaning. I further agree to uphold the Code of Ethics as set by the Department of Public Safety as a Volunteer or Contract Staff Member."

The Auditor requested documentation verifying completion of training and applicable requirements for twenty (20) of the 215 total active volunteers. These individuals were selected at random to ensure approximately 10% of the pool of volunteers was represented. Documentation of training completion was provided for all twenty (20) individuals. Additionally, interviews with three (3) volunteers while on site confirmed completion of required training and an understanding of zero tolerance and reporting responsibilities. One of the volunteers for whom training records were reviewed completed training in 2010, which would have been prior to the implementation of PREA standards and related training requirements. Additional research revealed that the individual was removed from active volunteer status 08/29/2011 yet was found on the volunteer list and schedules provided by the facility for this review. It is recommended that the facility and applicable individuals within headquarters conduct a review of approved lists and schedules to ensure all inactive individuals have been removed.

The Auditor requested documentation verifying completion of training for six (6) contractors, randomly selected from lists provided by the facility, selected to ensure representation from programming areas in

which they provided services. As of the writing of this report (03/24/2019), this documentation had not been received.

It is noted that while on site, the Team was given inaccurate information regarding the availability of contractors for interview on several occasions. The Auditor was therefore provided with telephone contact information for two (2) contractors. The Auditor attempted to contact these individuals by telephone on three occasions (03/08/2019, 03/15/2019, and 03/20/2019) but the calls were never answered. As a result, no interviews with contractors were conducted. Interviews with contractors should be included in the corrective action developed as a part of this standard.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a complete and accurate listing of all contractors providing services to the facility; (2) documentation of training completion as requested; and (3) provision of additional contact information for the Auditor to conduct the required interviews with facility contractors.

UPDATE – Interviews with two contractors were conducted 04/15/2019. The Auditor was provided with documentation that is required for each contractor and volunteer as they complete the required PREA training. Documentation packets were received for the five (5) individuals randomly selected by the Auditor. Based on this information and documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.32 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 19.0.2 (page 22) states that, “The level and type of training provided to volunteers and contractors shall be tailored to the level of contact and services provided to offenders. All current volunteers and contractors have been notified of PSD’s zero-tolerance policy regarding offender sexual abuse and sexual harassment, as well as how to report such incidents.”

Per the Program Specialist, any volunteer or contractor who works in a facility for twenty (20) or more hours per week must attend the full PREA training provided to employees. Those volunteers and contractors who work less than twenty (2) hours per week are only required to attend the VolinCor training, which is an abbreviated version of the training provided to employees.

The Auditor requested documentation verifying completion of training and applicable requirements for twenty (20) of the 215 total active volunteers. These individuals were selected at random to ensure approximately 10% of the pool of volunteers was represented. Documentation of training completion was provided for all twenty (20) individuals. Additionally, interviews with three (3) volunteers while on site confirmed completion of required training and an understanding of zero tolerance and reporting responsibilities.

One of the volunteers for whom training records were reviewed completed training in 2010. Since this was before PREA was in place, the Auditor requested documentation regarding when this individual completed required PREA training. The Auditor was informed by the Program Specialist that the individual was removed from the active volunteer list 08/29/2011 and therefore did not complete PREA training. The Auditor is concerned that the volunteer list available at the facility is inaccurate and therefore individuals who are not approved and/or trained may be able to gain access to the facility.

The Auditor requested documentation verifying completion of training for six (6) contractors, randomly selected from lists provided by the facility, selected to ensure representation from programming areas in which they provided services. As of the writing of this report (03/24/2019), this documentation had not been received.

It is noted that while on site, the Team was given inaccurate information regarding the availability of contractors for interview on several occasions. The Auditor was therefore provided with telephone contact information for two (2) contractors. The Auditor attempted to contact these individuals by telephone on three occasions (03/08/2019, 03/15/2019, and 03/20/2019) but the calls were never answered. As a result, no interviews with contractors were conducted. Interviews with contractors should be included in the corrective action developed as a part of this standard.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a complete and accurate listing of all contractors providing services to the facility; (2) documentation of training completion as requested; and (3) provision of additional contact information for the Auditor to conduct the required interviews with facility contractors.

UPDATE – Interviews with two contractors were conducted 04/15/2019. The Auditor was provided with documentation that is required for each contractor and volunteer as they complete the required PREA training. Documentation packets were received for the five (5) individuals randomly selected by the Auditor. Based on this information and documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.32 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 19.0.2.b (page 22) specifies that, “PSD maintains documentation confirming that volunteers and contractors received an appropriate level of training and that they understood the information provided. A copy shall be maintained with the PSD Volunteer Coordinator and is available to the PSD PREA Coordinator upon request.”

Upon completion of training, the employee must sign “Acknowledgement of Training Received” form once training has been completed. This form requires the participant to “acknowledge that I received training on the subject matter indicated” but does not require an acknowledgement of an understanding of the training as required in the standard. A query was submitted to the PREA Resource Center (PRC) to assess whether this was sufficient to meet the acknowledgement requirement of this sub-standard. 11/07/2018 per email from the PRC “Both requirements under 115.31 and 115.32 specifically state the employee, volunteer or contractor’s understanding of the training received must be documented...The standards do require documentation of understanding for the training received. The statement documenting the received training is understood is relevant to the entire training, not only to specific questions on the content of the training. This should be an affirmative acknowledgement from the employee, volunteer and contractor that the training had been both received and understood.”

The Auditor requested information as to the method by which contractors and volunteers acknowledged understanding of the training provided. As of the writing of this report (03/24/2019), this documentation had not been received. Based on the lack of supporting documentation, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the development of a system whereby contractors and volunteers acknowledge an understanding of training completed and an up to date acknowledgement completed by all contractors and volunteers.

UPDATE: In a review of training curriculum conducted with the former PREA Coordinator, it was learned that the training provided to staff includes the following statement, “By signing the PREA training attendance sheet, you are acknowledging receiving PREA training and that you understand the PREA training materials.” With the inclusion of this acknowledgement in the curriculum, non-compliance regarding contractors who are required to complete full PREA training is resolved. It is recommended that the agency continue to revise rosters to ensure the inclusion of the required language as noted in policy to support and enhance the language included in the curriculum. Additionally, documentation regarding volunteers and contractors who work less than 20 hours per week remains unresolved.

UPDATE: The Auditor was provided with documentation that is required for each contractor and volunteer as they complete the required PREA training. All such individuals are required to complete the Prison Rape Elimination Act (PREA) form PSD 8117 which states, "I have received, read and understood the rules and regulations regarding PREA." The form also includes summary information regarding zero tolerance and reporting requirements. Also included in the packets provided for each randomly selected volunteer and/or contractor were Acknowledgement of Training Received forms which state, "I understand that I have a duty to report any suspicious or actual sexual misconduct to my immediate [supervisors] and to report factual information as required by the departments Standards of Conduct." Documentation packets were received for the five (5) individuals randomly selected by the Auditor. Based on this information and documentation, OCCC is now assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Acknowledgement of training received (blank form)
- Query submitted to DOJ regarding acknowledgement of an understanding of training received and response from Welcome Rose
- Prison Rape Elimination Act of 2003 PREA Volunteer and Contractor Training curriculum
- Blank forms for volunteers and contractors, to include a synopsis of PREA information, Mandatory Reporting, Confidentiality, Notice of Consent to Search, and Code of Ethics
- Training documentation packets for identified volunteers
- Contractor and volunteer training packets for selected individuals to include Prison Rape Elimination Act (PREA) PSD 8117, Acknowledgement of Training Received, Notice of Consent to Search DOC 8252, Acknowledgement between Volunteer of Contract Employee and Department of Public Safety PSD 8103, Confidentiality PSD 8118, Mandatory Reporting PSD 8119, and Code of Ethics PSD 8110

Interviews conducted:

- Volunteers who have Contact with Offenders
- Volunteer / Contractor Coordinator
- Contractors who have Contact with Offenders

Standard 115.33: Inmate education

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? Yes No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? Yes No

115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment? Yes No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents? Yes No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? Yes No

115.33 (c)

- Have all inmates received such education? Yes No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility? Yes No

115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient? Yes No
- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf? Yes No
- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired? Yes No
- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled? Yes No
- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills? Yes No

115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions?
 Yes No

115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.33 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.1 (page 22) requires that, "Offenders shall receive verbal and written information at the time of intake by Intake Service Center (ISC) staff about PSD's zero tolerance policy and how to report incidents or suspected incidents of sexual abuse or sexual harassment."

Upon arrival at OCCC, offenders are provided with brochures if they are seen by intake staff on the day of arrival. If there are too many offenders being processed through intake to be met with before the end of the day, the overflow is met with on the following day. However, while offenders are in the holding cell, they are to be shown the PREA orientation video, and therefore receive the required information on arrival. The video used is the one produced by Just Detention International (JDI) and has been previously viewed by the Auditor. However, numerous offenders reported that either the video wasn't shown while they were in holding or the volume and closed captioning were turned off. During the on-site review, members of the Audit Team observed the video being played with the volume and closed captioning on in the intake area. This was on day shift (first watch). However, based on the information from the offenders, members of the Audit Team returned to the intake area during swing shift (second watch) and observed staff assigned to the area not being attentive to the offender in the holding cell and the video was not playing at all; rather a personal radio was playing very loudly. It was reported that this is a regular occurrence on swing shift. The offender was not provided the orientation information as required by this standard subsection.

Based on the above, OCCC is not compliant with the requirements of this subsection. Corrective action should include (1) addressing the conduct issue with staff assigned to the area, (2) creating an acknowledgement form for offenders to sign, confirming they have viewed the video; and (3) reconciliation by the PCM of the list of offenders processed through intake with the acknowledgement forms completed.

UPDATE: 07/29/2019 The Auditor received documentation of offenders confirming completion of orientation for March (118), April (151) and May (144). However there is nothing to indicate the number of offenders received during these months, so there is no way to determine if all offenders received

training. There is also no documentation of reconciliation by the PCM regarding the offenders received and the offenders trained.

UPDATE: 07/29/2019, 09/13/2019, 09/17/2019 The Auditor received documentation of offenders confirming completion of orientation for multiple housing units.

Based on the continual movement of offenders in an out of the facility and the reposting of current PREA-re-later information in all housing units, the Auditor has determined that the actions taken were sufficient to ensure that all current offenders had received the information they were required to receive on intake.

MODULE	Number on unit roster	Number of orientation completion forms provided	% completed
Module 1	Closed due to construction	Not applicable	Not applicable
Module 2	53	57	107% due to offender movement during the day
Module 3	Closed due to construction		
Module 4	89	53	60%
Module 5	Designated as intake		
Module 6	Medical Unit (not housing)		
Module 7	15	14	93%
Module 8	24	20	83%
Module 11	70	62	88%
Module 13	71	63	89%
Module 17	71	69	97%
Module 18	75	66	88%
Module 19	71	65	92%
Module 20	77	66	86%
Holding Unit	As of 09/13/19 the unit is under construction and has been for approximately one month; when reopened, any offender placed in this unit will be provided with a PREA brochure and the opportunity to ask questions of staff.		
Annex 1	120	109	91%
Annex 2	149	147	99%
Mauka	40	37	92%
Makai	41	42	102% due to offender movement during the day
Laumaka	78	70	90%
TOTAL	1044	940	90%

UPDATE 08/01/2019 The Auditor received memo dated 03/12/2019 from the Chief of Security to all Module 5 Uniformed Staff that reads:

"This memo is being generated for the instruction of the inmates PREA training video, Please review the following steps and ensure that these tasks are completed prior to the inmates being housed.

- *The PREA training video should remain on to ensure all intake inmates receive PREA training as they are processed into the facility.*

- *Once the video has been received, inmates should be directed to sign and date the PREA orientation form.*
- *One copy should then be placed in the housing file and another copy should be forwarded to the PREA compliance manager...*

UPDATE – The Auditor was provided with documentation of admissions for 09/17/2019, 09/18/2019, 09/19/2019, and 09/20/2019 along with signed forms confirming the completion of orientation for each offender processed into the facility. This demonstrates compliance with the mandate as issued by the Chief of Security and brings the facility into compliance with the requirements of this subsection.

115.33 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.2 (page 22 - 23) requires that, "Within thirty (30) days of intake, PSD Facility shall provide comprehensive PREA education via video (PRC video) or classroom instruction to offenders that addresses (a) Prevention and intervention; (b) Self-protection; (c) Reporting sexual abuse, sexual harassment, and protection from retaliation, including information on the options to report the incident to a designated staff member other than an immediate point-of-contact line officer; (d) Treatment and counseling; (e) PSD's zero tolerance for sexual abuse/sexual assault, sexual harassment, and retaliation."

Upon arrival at OCCC, newly received offenders arriving from area courts are provided with brochures if they are seen by intake staff on the day of arrival. If there are too many offenders being processed through intake to be met with before the end of the day, the overflow is met with on the following day. However, while offenders are in the holding cell, they are to be shown the PREA orientation video, and therefore receive the required information on arrival. The video used is the one produced by Just Detention International (JDI) and has been previously viewed by the Auditor. However, numerous offenders reported that either the video wasn't shown while they were in holding or the volume and closed captioning were turned off. During the on-site review, members of the Audit Team observed the video being played with the volume and closed captioning on in the intake area. This was on day shift (first watch). However, based on the information from the offenders, members of the Audit Team returned to the intake area during swing shift (second watch) and observed staff assigned to the area not being attentive to the offender in the holding cell and the video was not playing at all; rather a personal radio was playing very loudly. It was reported that this is a regular occurrence on swing shift. The offender was not provided the orientation information as required by this standard subsection.

The Laumaka furlough portion of the facility also receives offenders transferring from other facilities for participation in the furlough / work release program. As this portion of the facility is not an intake / reception center for the agency, offenders housed at this facility would have received comprehensive PREA education on intake at another facility. Offenders arriving at OCCC Laumaka would receive education only regarding policies and procedures that differ from those of the offender's previous facility, as required in sub-standard 115.33 (c). The Auditor was informed that policies and procedures at OCCC would not differ from those of other agency facilities and therefore, there is no requirement to provide formal orientation within 30 days of the arrival of these offenders.

Based on the above issue identified regarding offenders processed through the intake center, OCCC is not compliant with the requirements of this subsection. Corrective action should include (1) addressing the conduct issue with staff assigned to the area, (2) creating an acknowledgement form for offenders to sign, confirming they have viewed the video; (3) provision of the orientation video to all offenders currently housed in the facility, documenting completion by the offender signing a unit roster; and (4) reconciliation by the PCM of the list of offenders processed through intake with the acknowledgement forms completed.

UPDATE – The Auditor was provided with documentation outlined with subsection 115.33 (a) that demonstrates the facility is now in compliance with the requirements of this subsection.

115.33 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.3 (page 23) states that, "Effective August 2014, all current offenders should have received information on PREA. PSD requires that offenders who are transferred from one facility to another be re-educated only to the extent that the policies and procedures of the new facility differ from those of the previous facility."

The Auditor was provided with documentation that the average length of stay for offenders at OCCC is 67.80 days. Based on this length of stay, it is determined that there were no offenders at the facility during the on-site review who had been there since before the standards were implemented and therefore the facility is compliant with this subsection.

Based on the above, OCCC is assessed as compliant with the requirement of this subsection.

115.33 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.4 through .6 (page 23) states, "It is PSD's policy to make appropriate provisions, as necessary, for offenders with limited English proficiency through CRCO's [Civil Rights Compliance Officer] identification of authorized interpreters. Accommodations for offenders with disabilities (including offenders who are deaf or hard of hearing, those who are blind or who have low vision, or those who have intellectual, psychiatric, or speech disabilities) and offenders with low literacy levels shall be made on the facility level. ISC staff shall document by utilizing the PREA Mandated Reporting Form (PSD 8317), if an inmate requires accommodation and this form shall be forwarded to the Facility PREA Manager and Department PREA Coordinator via email fax, or mail within three (3) days."

The Auditor received PREA posters and brochures in Samoan and Tagalog. It was also noted that these materials are in the process of being translated by staff into Ilocano, Chuukese, and Marshallese. The Auditor was provided with twenty-one (21) mandatory reporting forms documenting when the language line was used to assist with the provision of orientation and completion of the risk assessment instrument during intake. Additionally, per an email from the Program Specialist, "any staff member can explain the PREA pamphlet but is overviewed with them at ISC-new admissions and Laumaka / Module 20 by case management. For others with limited reading skills there is the video they can watch and hear, it is also closed captioned for inmates who are hard of hearing or deaf." The former PREA Coordinator also noted, "MH inmates who require special services would receive small group explanation by MH Recreation Therapist. This is usually done in the jail MH housing at OCCC."

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.33 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.7 (page 23) requires that, "Each facility shall maintain electronic or written documentation of an offender's participation in the educational session (video or classroom). This documentation shall be forwarded to the Facility PREA Manager and the Department PREA Coordinator via email, fax, or mail within three (3) days."

While on-site, the Auditor was informed that each offender processed through intake is required to complete an Inmate Orientation Form, confirming the receipt of all orientation information and materials, to include PREA. These forms are completed on the housing units in which the offenders are placed following intake processing and are to be maintained in a file for each offender on the unit. The Auditor requested documentation for twenty-six (26) of the offenders who were interviewed as part of the on-site review. However, staff were only able to locate documentation for fourteen (14) of these offenders, which is a proof documentation rate of only 54%.

Based on the above lack of proof of practice documentation, OCCC is assessed as non-compliant with the requirement of this subsection. Corrective action will include the provision of orientation for all current

offenders as noted with subsection (b) along with related documentation. Additionally, to ensure continued records retention, the PCM will implement a system of checks and balances, reconciling the listing of all offenders processed through intake with completion orientation forms, copies of which will be required for submission to this individual.

UPDATE – The Auditor was provided with documentation outlined with subsection 115.33 (a) that demonstrates the facility is now in compliance with the requirements of this subsection.

115.33 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.8 (page 23) states that, “PSD shall ensure that key information on PSD’s PREA policies are continuously and readily available or visible through posters, handouts, offender handbooks, and resources in the offender library.”

The Audit Team observed PREA posters in offender accessible areas throughout the facility. The facility is also in the process of creating larger posters, more permanently affixed to the wall area closer to offender telephones. Some of these new posters were observed in housing units during the on-site review. Offender are also provided individual brochures containing reporting and safety information, to be retained in their property and available for access as needed by the offender. It is recommended that a facility-specific handbook for offenders be developed in order to provide concise, hands on information regarding facility operations on intake of the offender.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PREA Admissions Log (including released) 01/01/2017 through 12/31/2018
- Inmate Orientation Forms for selected offenders
- Admissions logs for 09/17/2019, 09/18/2019, 09/19/2019, and 09/20/2019 and all related Inmate Orientation Forms

Interviews conducted:

- Intake Staff
- Random Sample of Offenders

Standard 115.34: Specialized training: Investigations

115.34 (a)

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) Yes No NA

115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] Yes No NA
- Does this specialized training include proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] Yes No NA
- Does this specialized training include sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] Yes No NA
- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] Yes No NA

115.34 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] Yes No NA

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.34 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 21.0.1 (page 23) requires that, "IA, or facilities, if authorized by the Director, shall conduct the internal administrative investigation for any allegations of sexual abuse. In addition to general training provided to all employee under §18.0 of this policy, PSD investigators shall receive training on conducting sexual abuse investigations in confinement settings." The policy specifically addresses the training requirement for those who conduct sexual abuse investigations and is silent regarding those who conduct sexual harassment investigations as this is not a requirement of the standard. Per the Program Specialist, any staff member who conducts investigations can conduct sexual harassment investigations. However, it is a practice that only those individuals who have completed PREA investigations training conduct both abuse and harassment investigations.

The Auditor was provided with a list of facility staff who are designated as investigators. It is noted that the facility maintains its own list based on certifications of training completion. The Auditor was then provided with documentation for a randomly selected number of these investigators and was provided proof of completion of the National Institute of Corrections PREA: Investigating Sexual Abuse in a Confinement Setting training for the three individuals who were identified as the primary facility investigators. The previous PCM who is currently on extended leave also previously served as the facility's primary investigator. When the PCM went on leave, the other two individuals assumed investigation responsibilities and completed the required training. It is noted that these are the investigators who are designated on the 36 investigations opened during the 12 months preceding the on-site review.

Interviews conducted with currently identified investigators confirmed completion of specialized training through the National Institute of Corrections (NIC).

However, a review of the completed investigation packets received indicate that the investigators named in the packet had not always completed training prior to participation in an investigation. In one case, the investigation was transferred to an individual in October 2018, but the individual did not complete investigator training until November 2018. In two additional investigations, a co-investigator named in the report completed in March 2018 did not complete investigator training until September 2018.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a system whereby the individual who assigns investigatory responsibility first ensure completion of required training. Additionally, the facility should ensure that all currently open / pending investigations are completed by a trained investigator.

UPDATE: The Auditor was provided with a listing of currently trained investigators which now includes the PCM and two (2) lieutenants. The Auditor was then provided with documentation of investigator training completion for three (3) additional staff. Finally, the Auditor was provided with documentation of refresher training provided to all trained facility investigators. Based on this documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.34 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 21.0.2 and .4 (page 23 - 24) requires that, "PSD's specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda (not applicable) and Garrity warnings, preserving sexual abuse evidence for collection in confinement settings, and an understanding of the criteria and evidence required to substantiate a case in an administrative proceeding or for a referral by a county LE agency for criminal prosecution...The Department PREA Coordinator will be responsible for the classroom requirement of sexual abuse investigations training. IA Investigators or Facility Investigators may comply with this

provision through webinars for Specialized PREA Investigations Training offered at the PRC website and the National Institute of Corrections (NIC) website.”

The Auditor was informed that all investigators are required to complete the National Institute of Corrections curriculum for “PREA: Investigating Sexual Abuse in a Confinement Setting”. This curriculum was reviewed, and the Auditor confirmed that it contained all standard required elements.

The Auditor was also provided with the curriculum for specialized training offered through Wicklander-Zulawski and Associates regarding non-confrontational interviewing which included topics such as trauma, interviewing victims of sexual assault, key questions, rationalizations, protecting evidence assumptive questions, and follow up questions, which was provided to further the investigation skills of participants.

Interviews conducted with currently identified investigators confirmed completion of specialized training through the National Institute of Corrections (NIC). Interviewees confirmed inclusion of the standard-specified topics noting the ability to Mirandize interviewees resting only with law enforcement or investigators of the Internal Affairs unit, who are sworn peace officers.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.34 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 21.0.3 (page 23 – 24) states, “PSD shall maintain documentation substantiating that investigators have completed the required training and it shall be documented on the staff member’s training record with TSD [Training and Staff Development]. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

Completion of NIC investigator training is documented with either a certificate of completion or the employee’s signature on a screen shot of NIC training table of contents. The Auditor was provided with documentation of the completion of this training for the three primary facility investigators. It is noted that this training does not appear on the individual’s official training transcript as it is a web-based training that is not organized by the agency’s training unit. However, proof of completion is maintained in the staff member’s training record file.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.34 (d)

All criminal investigations are conducted by county law enforcement officials with the exception of Honolulu-based facilities. These are completed by the Honolulu Police Department. There is no state entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment. As such, OCCC is compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Listing of OCCC investigators
- Sex Abuse Treatment Center and Honolulu Police Department Overview and Dynamics of Sexual Violence
- National Institute of Corrections, PREA Investigating Sexual Abuse in a Confinement Setting
- Curriculum for specialized training offered through Wicklander-Zulawski and Associates regarding non-confrontational interviewing
- Training completion certificates for select investigative staff
- An updated listing of OCCC investigators

- Training completion certificates for additional facility staff
- Documentation of investigations refresher training provided

Interviews conducted:

- Investigative Staff

Standard 115.35: Specialized training: Medical and mental health care

115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? Yes No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse? Yes No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment? Yes No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment? Yes No

115.35 (b)

- If medical staff employed by the agency conduct forensic examinations, do such medical staff receive appropriate training to conduct such examinations? (N/A if agency medical staff at the facility do not conduct forensic exams.) Yes No NA

115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? Yes No

115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? Yes No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.35 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.1 (page 24) requires that, "All full-time and part-time medical and mental health practitioners, who work regularly in PSD facilities should be trained in: (a) How to detect and assess signs of sexual abuse and sexual harassment; (b) How to preserve physical evidence of sexual abuse; (c) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and (d) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment."

Interviews conducted with randomly selected Health Services (medical and mental health) staff confirmed completion of specialized training through the National Institute of Corrections (NIC). Interviewees also confirmed inclusion of standard-specified topics, noting reporting through their established chain of command and ensuring the information is also reported to the Watch Commander.

Documentation was requested to confirm completion of nine (9) randomly selected medical and mental health staff in the form of either (1) a certificate of completion of PREA: Behavior Health Care for Sexual Assault Victims in a Confinement Setting or (2) employee signature on a screen print of the course completion notification for NIC Medical Care for Sexual Assault Victims in a Confinement Setting. It is noted that the Auditor selected every 10th staff member on the list of staff created from rosters provided, to include two (2) agency (contract) nurses. As of the writing of this report (03/24/2019) documentation had not been received for four (4) of those individuals, two of which were agency contract nurses.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the provision of documentation confirming training completion for facility health services providers, to include contract agency nurses and immediate training completion to address any identified gaps.

UPDATE: 08/30/19 The Auditor was provided with a spreadsheet detailing the training for 29 staff assigned to health services. Of these, five (5) do not have contact with offenders (e.g., clerical support, medical records), leaving a total of 24 staff applicable to this standard. The documentation provided illustrates that six (6) have not completed specialized training for health services staff, leaving a non-compliance rate of 25%. Additionally, five (5) of these 24 have not completed general PREA training requirements, leaving a non-compliance rate of 21%. This is insufficient to demonstrate compliance with the standard.

UPDATE: 09/13/2019 The Auditor was provided with an updated spreadsheet detailing training compliance for the 24 applicable staff along with certificates of completion for specialized training, bringing compliance for specialized training to 100%. As a result, OCCC is now assessed as compliant with this subsection.

115.35 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.2 (page 24) indicates that, "PSD medical and mental health staff are not responsible for conducting forensic medical examinations." This was confirmed in interviews with medical and mental health staff while on-site.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.35 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.3 states that, "PSD shall maintain documentation substantiating that medical and mental health practitioners have completed the required training and it shall be documented on the staff member's training record with TSD. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days."

It is noted that this training does not appear on the individual's official training transcript as it is a web-based training that is not organized by the agency's training unit. However, proof of completion is maintained in the staff member's training record file.

Documentation was requested to confirm completion of nine (9) randomly selected medical and mental health staff in the form of either (1) a certificate of completion of PREA: Behavior Health Care for Sexual Assault Victims in a Confinement Setting or (2) employee signature on a screen print of the course completion notification for NIC Medical Care for Sexual Assault Victims in a Confinement Setting. It is noted that the Auditor selected every 10th staff member on the list of staff created from rosters provided, to include two (2) agency (contract) nurses. As of the writing of this report (03/24/2019) documentation had not been received for four (4) of those individuals, two of which were agency contract nurses.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the provision of documentation confirming training completion for facility health services providers, to include contract agency nurses and immediate training completion to address any identified gaps.

UPDATE: 08/30/19 The Auditor was provided with a spreadsheet detailing the training for 29 staff assigned to health services. Of these, five (5) do not have contact with offenders (e.g., clerical support, medical records), leaving a total of 24 staff applicable to this standard. The documentation provided illustrates that six (6) have not completed specialized training for health services staff, leaving a non-compliance rate of 25%. Additionally, five (5) of these 24 have not completed general PREA training requirements, leaving a non-compliance rate of 21%. This is insufficient to demonstrate compliance with the standard.

UPDATE: 09/13/2019 The Auditor was provided with an updated spreadsheet detailing training compliance for the 24 applicable staff along with certificates of completion for specialized training, bringing compliance for specialized training to 100%. As a result, OCCC is now assessed as compliant with this subsection.

115.35 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.4 (page 24) requires that, "Medical and mental health practitioners shall receive the training mandated for employees under §18.0 or §19.0 of this policy, based on the practitioner's status. Medical and mental health practitioners may comply with this provision through the webinars for Specialized PREA Training for Medical and Mental Health Practitioners offered at the PRC website and the National Institute of Corrections (NIC) website."

All staff are provided with formal training every other year using the curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training. The date of training provision is based on the individual staff member's last date of training. Each staff is required to complete formal training every two years. To provide information in the "in-between" years, the Department of Public Safety Director issued, "A formal reminder to all Department of Public Safety (PSD) staff of the requirements of the Prison Rape Elimination Act (PREA)." The memo includes a reminder about zero tolerance and the mandating of "...prevention, detection, elimination, reporting, and investigation of reports by inmate victims of sexual abuse and sexual harassment." The Auditor was informed that there is no documentation maintained of staff verification that they have received the distributed information.

Documentation was requested to confirm completion general PREA training for nine (9) randomly selected medical and mental health staff in the form of a training transcript. It is noted that the Auditor selected every 10th staff member on the list of staff created from rosters provided, to include two (2) agency (contract) nurses. As of the writing of this report (03/24/2019) documentation had not been received for two (2) of those individuals, both of whom were agency contract nurses.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the provision of documentation confirming training completion for facility health services providers, to include contract agency nurses and immediate training completion to address any identified gaps.

UPDATE: 08/30/19 The Auditor was provided with a spreadsheet detailing the training for 29 staff assigned to health services. Of these, five (5) do not have contact with offenders (e.g., clerical support, medical records), leaving a total of 24 staff applicable to this standard. The documentation provided illustrates that five (5) of these 24 have not completed general PREA training requirements, leaving a non-compliance rate of 21%. This is insufficient to demonstrate compliance with the standard.

UPDATE: 09/13/2019 The Auditor was provided with an updated spreadsheet detailing general PREA training compliance for the 24 applicable staff. The Auditor was also provided with a master general PREA training spreadsheet (see 115.31) documenting completion of required training for the identified individuals. As a result, OCCC is now assessed as compliant with this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- National Institute of Corrections Medical Care for Sexual Assault Victims in a Confinement Setting
- Certificates of completion of PREA: Behavior Health Care for Sexual Assault Victims in a Confinement Setting and NIC Medical Care for Sexual Assault Victims in a Confinement Setting for identified individuals
- Documentation of general PREA training completion for identified individuals
- Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Department of Public Safety Director dated 10/25/2018 regarding zero tolerance and reporting along with a re-issuing of the memo regarding fraternization between staff and inmates

Interviews conducted:

- Medical and Mental Health Staff
- Volunteer / Contractor Coordinator

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

115.41 (a)

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? Yes No
- Are all inmates assessed upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? Yes No

115.41 (b)

- Do intake screenings ordinarily take place within 72 hours of arrival at the facility? Yes No

115.41 (c)

- Are all PREA screening assessments conducted using an objective screening instrument? Yes No

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about

his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? Yes No

115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse? Yes No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses? Yes No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: history of prior institutional violence or sexual abuse? Yes No

115.41 (f)

- Within a set time period not more than 30 days from the inmate's arrival at the facility, does the facility reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening? Yes No

115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral? Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Request? Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse? Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness? Yes No

115.41 (h)

- Is it the case that inmates are not ever disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section? Yes No

115.41 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.41 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.1 and .3 (page 25 and 26) states, "The ISC [Intake Service Center] is required to screen offenders at the intake screening process, which occurs upon admission to a facility, by utilizing the PREA Screening Tool (PSD 8314) and the accompanying instructions for the PREA Screening Tool...The facility staff shall review the offender's risk of sexual abuse victimization (vulnerability factors) or sexual abusiveness (predatory actors) toward other offenders, by reviewing the 'Intake' PREA Screening Tool."

The Auditor was provided with a listing of all offenders who were received by OCCC between 01/01/2018 and 12/31/2018 which also included documentation of initial (72 hour) and follow-up (30-day) assessments. The Auditor conducted an analysis of this document and found the following:

- 8,019 offenders were received at OCCC during this time period.
- Of these, 6,733 offenders had initial risk assessments completed, leaving 1,286 offenders received without initial assessments completed.
- Of the 1,286 offenders without initial risk assessments completed, 21 offenders were not yet due for an assessment and 887 were released or transferred prior to the 72-hour mark, leaving 289 offenders who should have assessments completed who had no applicable documentation of completion.
- With a pool of applicable offenders of 7,111 (8,019 – 21 – 887), 289 with no risk assessments completed leaves a compliance rate of 96% of offenders do have an initial assessment completed as required.

It is noted that these offenders were likely received and not processed through intake on the day of arrival due to the quantity of offenders received. All Intake Unit staff were provided with a directive instructing them to ensure all offenders were processed through intake and have an initial risk assessment completed before staff left the facility on a Friday before any Monday holiday to ensure there are none that are held over and have assessments go beyond 72 hours due to the holiday

During interviews conducted, 10 of 45 offenders indicated that either they were not asked the applicable risk assessment questions on intake or could not recall such an interaction. However, information from interviews with intake staff and staff who complete risk assessments does not support these statements.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.41 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.2 (page 25) requires that, "The intake screening by ISC [Intake Service Center] shall occur within seventy-two (72) hours of intake/arrival."

During interviews conducted while on site, the Auditor confirmed with applicable staff that the initial (72-hour) assessments were completed on the day of the offender's arrival during the intake process. However, it was also learned that if more offenders were received than could be processed during the workday, offenders were brought back to have assessments and other intake processes completed on the next business day. If this was a Friday, followed by a Monday holiday, the offender would not have an initial assessment completed within 72 hours as required.

The Auditor was provided with a listing of all offenders who were received by OCCC between 01/01/2018 and 12/31/2018 which also included documentation of initial (72 hour) and follow-up (30-day) assessments. The Auditor conducted an analysis of this document and found the following:

- 8,019 offenders were received at OCCC during this time period.
- Of these, 6,733 offenders had initial risk assessments completed, leaving 1,286 offenders received without initial assessments completed.
- Of the 1,286 offenders without initial risk assessments completed, 21 offenders were not yet due for an assessment and 887 were released or transferred prior to the 72-hour mark, leaving 378 offenders who should have assessments completed who had no applicable documentation of completion.

The Auditor then reviewed the timelines for the completion of initial risk assessments that had been conducted.

- 6,733 records were reviewed.
- Of these, 756 initial assessments were completed beyond the 72-hour timeframe required by the standard.

In order to calculate final compliance rates, the Auditor added the 378 for whom assessments were not completed but should have been to the 756 that were completed late, for a total of 1,134 initial assessments not in compliance. The pool of applicable offenders was calculated to be the 6,733 offenders who had initial assessment completed plus the 378 for whom assessment should have been completed, for a total of 7,111 offenders. This leaves an overall non-compliance rate of 16%.

During interviews conducted, 10 of 45 offenders indicated that either they were not asked the applicable risk assessment questions on intake or could not recall such an interaction.

Interviews with intake staff responsible for the completion of initial assessments reported that all offenders are assessed on the day of arrival unless there were too many offenders to be seen before the close of business or the offender was received after hours. Individuals reported that these offenders are seen on the next business day, noting staff use three different sources to confirm that all offenders have been seen: (1) the booking list which is a database shared with the facility so we can see everyone coming in on OffenderTrak; (2) the custody log that lists who comes in from the intake unit at the court; and (3) a report that lists out who might be coming in from circuit court. Per the Director responsible for oversight of intake services, offenders are not dropped off any time of the day or night except for an occasional violator. Offenders received at OCCC are those who have been arrested and who have gone to court. Individuals arrested off the street would go to the Honolulu Police Department jail. She confirmed that the last court run of the day is at approximately 1800 hours and someone from the intake unit is required

to stay late enough on Friday to ensure everyone was seen before the weekend.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. It is noted that all Intake Unit staff were provided with a directive instructing them to ensure all offenders were processed through intake and have an initial risk assessment completed before staff left the facility on a Friday before any Monday holiday to ensure there are none that are held over and have assessments go beyond 72 hours due to the holiday. Corrective action should include the development of an effective tracking system and a system of oversight to ensure initial assessments are completed within timeframes. Documentation of same will be provided to the Auditor each month during the corrective action period.

UPDATE – The Auditor was provided with PREA Admission Logs addressing 01/01/2019 through 06/30/2019 and 07/01/2019 through 09/24/2019. The reports were edited to eliminate (1) offenders who did not remain at the facility for at least 72 hours, (2) offenders who were housed at the Bureau of Prisons facility whose names remained on the master list for OCCC, and (3) offenders who had been transferred to another facility due to the construction being undertaken at OCC but whose names remained on the master list for OCCC. Following this editing, the facility was able to demonstrate a compliance rate for January through June of 08% and July through September of 97%. The Auditor was also provided with 10% of all assessments completed, verifying the completion dates as noted on the master spreadsheet. Based on this documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.41 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.6 (page 26) requires that, "ISC [Intake Service Center] and facility staff shall utilize the PREA Screening Tool (PSD 8314) to conduct PREA risk assessments."

It is noted that the OffenderTrak system maintains all offender-related information, to include PREA risk assessments. The system was reviewed while the Auditor was on site and inclusion of risk assessment questions was confirmed. It is also noted that the reports generated by the OffenderTrak system regarding the completion of PREA risk assessments do not allow manual entry of completion dates. The user must complete the assessment (initial or follow up) for a date to populate the applicable field of this system and generated reports.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.41 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.7 (page 26) states that, "The PREA Screening Tool (PSD 8314) evaluates an offender's vulnerability factors and predatory factors. The PREA Screening Tool considers the following criteria to assess offenders for risk of sexual victimization: a. Whether the offender has a mental, physical, or developmental disability; b. The age of the offender; c. The physical build of the offender; d. Whether the offender has previously been incarcerated; e. Whether the offender's criminal history is exclusively nonviolent; f. Whether the offender has prior convictions for sex offenders against an adult or child (see predatory factors); g. Whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; h. Whether the offender has previously experienced sexual victimization, in a correctional and/or non-correctional setting, within the last ten (10) years; i. The offender's own perception of vulnerability (oral feedback); and j. Whether the offender is detained solely for civil immigration purposes, which normally does not occur at PSD facilities."

It is noted that the risk assessment instrument employed by PSD includes the qualification that prior victimization is scored if it occurred within the last ten (10) years. Per the former PREA Coordinator, when the assessment was first implemented, an exceptional number of offenders were assessed as potential victims. This resulted in revisions of the assessment tool being piloted in a major facility,

followed by additional revisions prior to relaunching of the assessment tool as it currently stands. As part of the pilot, statistics were reviewed to ensure the revised tool captured identified victims based on case information. Additionally, the inclusion of the ten-year qualification was based on similar parameters found in classification, infraction, or other similar assessment systems. Assessors are trained to document victimization that occurred beyond the ten-year mark and submit an override if the assessor's analysis indicated a need to include the identified victimization in final scoring due to a belief that the information indicated a risk or safety issue. The former PREA Coordinator will conduct refresher in-house training to ensure a thorough understanding of the override option by assessors and will update the assessment user manual as needed.

Inclusion of standard-required risk assessment elements and the inclusion of risk information beyond the 10-year mark was confirmed in interviews with staff responsible for the completion of these risk assessments.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

UPDATE: The Auditor was provided with presentation materials and an email from the former PREA Coordinator regarding completion of risk assessment training with all individuals responsible for the completion of risk assessments. These materials reinforced the inclusion of information that is more than 10 years old and the use of overrides as needed.

115.41 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.8 (page 27) states that, "The PREA Screening Tool considers prior predatory acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, if known to the facility, in assessing offenders for risk of being sexually abusive."

It is noted that the risk assessment instrument employed by PSD includes the qualification that prior acts of predation are scored if they occurred within the last ten (10) years. Per the former PREA Coordinator, when the assessment was first implemented, an exceptional number of offenders were assessed as potential predators. This resulted in revisions of the assessment tool being piloted in a major facility, followed by additional revisions prior to relaunching of the assessment tool as it currently stands. As part of the pilot, statistics were reviewed to ensure the revised tool captured identified predators based on case information. Additionally, the inclusion of the ten-year qualification was based on similar parameters found in classification, infraction, or other similar assessment systems. Assessors are trained to document predation that occurred beyond the ten-year mark and submit an override if the assessor's analysis indicated a need to include the identified predatory behavior in final scoring due to a belief that the information indicated a risk or safety issue. The former PREA Coordinator will conduct refresher in-house training to ensure a thorough understanding of the override option by assessors and will update the assessment user manual as needed.

Inclusion of standard-required risk assessment elements was confirmed in interviews with staff responsible for the completion of these risk assessments.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.41 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.4 and .5 (page 26) states that, "The facility shall reassess an offender's risk for victimization or abusiveness within thirty (30) days of intake screening, if additional relevant information is received about the offender's victimization or abusiveness, subsequent to the intake screening, by utilizing the PREA Screening Tool (PSD 8314). If no additional relevant information is received by the facility when reassessing the intake screening,

then check the appropriate box on the intake screening tool processed within seventy-two (72) hours of admission.”

During interviews conducted with staff responsible for the completion of assessments, the Auditor was informed of two different processes for the completion of follow-up (30-day) risk assessments:

- In Laumaka, staff responsible for the completion of risk assessments reported that they don't meet again with the offender but update the initial assessment with any new information obtained from staff and their own interactions with the offender. There is no proof documentation of this process except for the completion of the follow up assessment in OffenderTrak.
- In the jail portion of the facility, Counselors reported that they print out the initial assessment and call the offender out for a meeting in a confidential area. The Counselor then asks the offender if anything has changed since the completion of the initial assessment, allowing the offender to review the initial assessment if needed. A paper copy is maintained on which update information is noted and the Counselor initials; the information is then entered in the OffenderTrak risk assessment system.

It is noted that 21 of the 45 offenders interviewed indicated that either they were not asked risk assessment questions again or did not remember such an interaction with staff. However, this may be attributable to the different processes in place for assessment completion.

The Auditor was provided with a listing of all offenders who were received by OCCC between 01/01/2018 and 12/31/2018 which also included documentation of initial (72 hour) and follow-up (30-day) assessments. The Auditor conducted an analysis of this document and found the following:

- 8,019 offenders were received at OCCC during this time period.
- Of these, 6,733 offenders had initial risk assessments completed; however, an additional 115 offenders were noted as being housed in the federal detention center but remained on the report due to system designation issues. This leaves 6,618 offenders who were eligible for follow up risk assessment completion.
- Of these 6,618 offenders, 3,609 offenders were released or transferred prior to the 30-day mark, leaving 2,674 offenders.
- Of these 2,674 offenders, 264 offenders have admission dates missing or before the documentation period, some years earlier. This is due to the offenders moving in and out of the facility, serving jail time on weekends, etc. As the information provided did not allow the auditor to determine timeframes for assessment completion, these offenders were deleted from the pool analyzed for compliance, leaving 2,410 offenders whose assessments were reviewed.
- Of these 2,410 offenders, 1,635 had follow-up (30-days) assessments completed within timeframes. An additional 530 offenders who were released prior to the 30-day mark had follow up risk assessments completed prior to release, leaving a total of 2,165 of 2,940 offenders had risk assessments completed within timeframes, leaving a compliance rate of 74%.

It is noted that the compliance percentage would decrease when the reviewer adds in the offenders who never had initial assessments completed and who remained at the facility more than 30 days.

During the review of data provided by the facility, it was also observed that on numerous occasions, the follow-up assessment was completed within days of the initial assessment. Although this is not contrary to policy or standard requirements, it appears to defeat the purpose of completing a follow-up assessment after the offender has had time to adjust to his/her incarceration and staff to observe behavior and interact with the offender. It is recommended that agency administration review systems in place and consider establishing a minimum amount of time to elapse between these assessments.

In addition, the policy requires the completion of a follow-up assessment within 30 days of the completion of the initial assessment. This is not compliant with the standard requirement of the completion of a follow up assessment within 30 days of the offender's arrival at the facility. However, in conversations with the former PREA Coordinator, it was learned that the 30 days following intake is included in the user

manual for risk assessors. Policy language was predicated on the practice of completion of initial assessments on the day of intake, thereby meeting standard requirements. It is recommended that the policy is language is modified on the next policy revision.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the development of an effective tracking system and a system of oversight to ensure assessments are completed within timeframes. Documentation of same will be provided to the Auditor each month during the corrective action period.

UPDATE – The Auditor was provided with PREA Admission Logs addressing 07/01/2019 through 09/24/2019. The reports were edited to eliminate (1) offenders who did not remain at the facility for at least 72 hours, (2) offenders who were housed at the Bureau of Prisons facility whose names remained on the master list for OCCC, and (3) offenders who had been transferred to another facility due to the construction being undertaken at OCC but whose names remained on the master list for OCCC. Following this editing, the facility was able to demonstrate a compliance rate for July through September of 95%. The Auditor was also provided with 10% of all assessments completed, verifying the completion dates as noted on the master spreadsheet. It was learned that several of the assessments that had been documented as being late were actually completed by hand during a four (4) day time frame in which the computer system was down at all agency facilities. Additionally, the facility implemented the following procedure to ensure completion of follow-up assessments in compliance with standard requirements is sustained, per a memorandum received from the Deputy Warden:

Some of the overdue 30-day PREA reviews are due to short staffing, lock downs, and inmates moving modules. However, the supervisors failed to supervise and complete the task. The Residency Section has updated the process to ensure timely reviews as follows:

- *The Social Service Assistant will make a weekly PREA List [example provided].*
- *Case Managers will be tasked to complete their list every week.*
- *Supervisors will make sure that this [task] is completed every week.*
- *Supervisors will utilize the PAS if Case Managers fail to complete their task in a timely manner.*
- *Supervisors will ensure there is proper coverage.*

Based on the revised process and the documentation provided that demonstrates that it appears to be working, OCCC is now assessed as compliant with the requirements of this subsection.

115.41 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.9 (page 27) states that, “The offender’s risk of victimization or abusiveness shall be reassessed; when a referral, request, incident of sexual abuse, or receipt of additional information which may impact the offender’s risk level by utilizing the PREA Screening Tool (PSD 8314).”

During the documentation period, there was one substantiated investigation of staff-on-offender sexual abuse. The assessment was received, but it was not completed until 03/06/2019. The investigation initiated 06/12/2018, the Sexual Assault Review took place 11/13/2018 and the offender was notified of closure / findings 01/15/2019. From the information provided, the follow-up assessment was not completed in a timely manner that would allow for the safe housing of the offender based on the results of the investigation completed. Additionally, as noted with other standard narratives, only 5 of the 36 allegations received in the 12 months preceding the on-site review had investigations completed, leaving the possibility that more offenders may be confirmed victims or perpetrators and therefore in need of for-cause assessments

The Program Specialist reported that there were no other instances in the 12 months preceding the on-site review which would have indicated the need for the completion of a for-cause assessment (e.g., referral, receipt of additional applicable information, etc.). Interviews conducted with staff responsible for

the completion of assessments indicated that for-cause assessments would not fall within their responsibilities. Most indicated that the PCM would be responsible for the completion of related information and the completion of required assessments.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the development of a process to ensure applicable assessments are completed in a manner timely enough to ensure the safety of involved offenders. This should include any offender impacted by the completion of the 31 open investigations noted with other standards.

UPDATE – The Auditor was provided with documentation of a revised investigation process as indicated with standard 115.22 that includes a review to ensure all applicable for-cause risk assessments are completed in response to applicable substantiated investigations. The Auditor was also provided with twenty-five (25) completing investigation reports, documenting a review for the same. Finally, the Auditor was provided with examples of identified for-cause assessments. Based on this documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.41 (h)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.10 (page 27) requires, “An offender shall not be disciplined for refusing to answer, or for not disclosing complete information, related to, the questions asked pursuant to §24 of this policy.” This was confirmed in interviews with staff responsible for the completion of risk assessments.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.41 (i)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.11 (page 27) requires that, “The information on the PREA Screening Tool (PSD 8314) is subject to confidentiality requirements; therefore, professional and ethical rules shall be enforced to avoid any negative impact to the offender. The information should not be exploited to the detriment of the offender.”

All final risk identifier information is maintained in the OffenderTrak system and is accessible for use by those making bed, housing, programming and job assignments. However, the details behind the assessment and confidential information used in the assessment is not accessible.

Per the Program Specialist, access to the screening form is tied to system sign-in parameters associated with the job classification of the position. Designated positions have been determined by responsibilities to require access to the system, which occurs automatically based on OTRAK permission profiles once the individual is officially assigned to that position. Any other access is granted on a case by case basis and only with the written approval of the PREA Coordinator. The Auditor was provided with a blank User Access Request Form, which would have to be completed, submitted, and approved prior to granting any exceptional access. It is noted that there were no examples of requests for access outside standard position access assignments during the 12 months preceding the on-site review.

Interviews conducted with staff responsible for the completion of risk assessments confirmed knowledge of system restricted and permission processes.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PREA Admissions Log (including released) 01/01/2018 through 12/31/2018
- Blank Department of Public Safety PREA Screening Tool

- Examples of risk assessments completed for select offenders
- Department of Public Safety PREA Screening Tool Instructions OffenderTrak Data Input (May 2018)
- 02/07/2019 directive regarding the processing of all offenders through intake before leaving on Friday before a holiday
- For-cause risk assessment completed 03/06/2019
- PREA Admission Logs addressing 01/01/2019 through 06/30/2019 and 07/01/2019 through 09/24/2019 along with 10% of all assessments listed
- 09/20/2019 memorandum from the Deputy Warden outlining the revised follow-up assessment process

Interviews conducted:

- Staff Responsible for Risk Screenings
- Random Sample of Offenders
- PREA Compliance Manager

Standard 115.42: Use of screening information

115.42 (a)

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments? Yes No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments? Yes No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments? Yes No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments? Yes No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments? Yes No

115.42 (b)

- Does the agency make individualized determinations about how to ensure the safety of each inmate? Yes No

115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)?
 Yes No
- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?
 Yes No

115.42 (d)

- Are placement and programming assignments for each transgender or intersex inmate reassessed at least twice each year to review any threats to safety experienced by the inmate?
 Yes No

115.42 (e)

- Are each transgender or intersex inmate's own views with respect to his or her own safety given serious consideration when making facility and housing placement decisions and programming assignments? Yes No

115.42 (f)

- Are transgender and intersex inmates given the opportunity to shower separately from other inmates? Yes No

115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? Yes No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? Yes No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.42 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 2.0.1 (page 27) requires that, "PSD shall use the information from the risk assessment screening for housing designations, work line, program assignment, or scheduling to keep separated those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive."

Per the Department of Public Safety, PREA Screening Tool Instructions (07/2015), "When an offender is designated as a 'victim, potential victim, sexual predator, or potential sexual predator...the Facility COS [Chief of Security] or Watch Commander shall complete Section VIII: Housing Status to ensure that the offender is appropriately housed based on the PREA Screening Tool scoring designation by checking the relevant housing placement: general population, separate status, protective custody unit, or

administrative segregation. The Facility COS or Watch Commander shall document their assessment citing key facts in the comments section. The Facility COS or WC shall identify the recommended housing and the final housing designation. The housing assignment shall consider the offender's scoring and the designated housing assignment shall consider how the offender's placement may impact the offender or other offenders, while ensuring the requirements of the PREA Standards. It is important that the housing assignment also considers the programmatic access the offender will encounter based on the housing assignment. The PREA screening instrument scoring is to be utilized to formulate housing assignments, cell or bed assignments, work assignments, education and other programmatic access for the offender."

Per interviews conducted, the PCM is informed of risk information and then works with other staff to communicate risk information. Housing assignments are made by the Module 5 Lieutenant, who can look at offender risk information in OffenderTrak where all concerns are documented, and applicable offenders are identified. Work line teams are put together by case managers who work with the offenders to see where they want to work. Individuals who complete risk assessments confirmed notification to the PCM regarding any offenders for which they have concerns, and that there is an alert in OffenderTrak to provide information to other applicable staff.

The Auditor was provided with a Health Care Report covering the period of 01/01/2018 through 12/31/2018. The document indicated that during this time period, OCCC housed two (2) known victims, seven (7) potential predators, and three (3) sexual predators. The Auditor requested documentation how risk identifiers were taken into account for these offenders, as per policy, the following is to occur: "the Facility COS [Chief of Security] or Watch Commander shall complete Section VIII: Housing Status to ensure that the offender is appropriately housed based on the PREA Screening Tool scoring designation by checking the relevant housing placement: general population, separate status, protective custody unit, or administrative segregation. The Facility COS or Watch Commander shall document their assessment citing key facts in the comments section. The Facility COS or WC shall identify the recommended housing and the final housing designation." As of the writing of this report (03/24/2019), this documentation has not been received.

Based on the lack of requested documentation regarding at risk offenders, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the provision of applicable documentation for all identified offenders or, if not available, the implementation of a system to ensure the required reviews are completed and documented in a sustainable manner, completing any reviews currently incomplete or missing with follow up to ensure appropriate housing, job and programming assignments for the applicable offenders.

UPDATE – The Auditor was informed that the facility had not been conducting special reviews for offenders with positive screenings, namely those who were assessed with risk identifiers of known or potential victims or abusers. A process was implemented in which the screening was hand carried to Module 5, the area in which housing assignments are made and email documentation submitted to the Chief of Security and Warden, who are required to review all applicable documentation. Since this process was implemented, only two (2) offenders were identified on positive screening reports. The Auditor was provided with the risk assessments for these two individuals, documenting completion of Section VIII on the review in which the Chief of Security reviews and signs off on housing assignments. Based on this process and related documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.42 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 25.0.2 (page 27) requires that, "PSD shall use the risk screening tool information to make an individualized assessment about how to ensure the safety of each individual offender."

Interviews conducted with staff responsible for risk screenings indicated that all risk information is communicated to the PCM and documented in OffenderTrak. Since the facility is a jail that houses a majority of offenders for only a short period of time, risk assessment information is primarily used in housing decisions. However, risk identifiers are considered in work line assignments with staff taking steps as needed to ensure the separation of potential victims from potential perpetrators. Staff also noted that LGBTI offenders are not placed in modules identified as housing assaultive offenders and indicated that risk information can also impact Title 1 educational programming assignments.

The Auditor was provided with a Health Care Report covering the period of 01/01/2018 through 12/31/2018. The document indicated that during this time period, OCCC housed two (2) known victims, seven (7) potential predators, and three (3) sexual predators. The Auditor requested documentation how risk identifiers were taken into account for these offenders, as per policy, the following is to occur: "the Facility COS [Chief of Security] or Watch Commander shall complete Section VIII: Housing Status to ensure that the offender is appropriately housed based on the PREA Screening Tool scoring designation by checking the relevant housing placement: general population, separate status, protective custody unit, or administrative segregation. The Facility COS or Watch Commander shall document their assessment citing key facts in the comments section. The Facility COS or WC shall identify the recommended housing and the final housing designation." As of the writing of this report (03/24/2019), this documentation has not been received.

Based on the lack of requested documentation regarding at risk offenders, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the provision of applicable documentation for all identified offenders or, if not available, the implementation of a system to ensure the required reviews are completed and documented in a sustainable manner, completing any reviews currently incomplete or missing with follow up to ensure appropriate housing, job and programming assignments for the applicable offenders.

UPDATE – The Auditor was informed that the facility had not been conducting special reviews for offenders with positive screenings, namely those who were assessed with risk identifiers of known or potential victims or abusers. A process was implemented in which the screening was hand carried to Module 5, the area in which housing assignments are made and email documentation submitted to the Chief of Security and Warden, who are required to review all applicable documentation. Since this process was implemented, only two (2) offenders were identified on positive screening reports. The Auditor was provided with the risk assessments for these two individuals, documenting completion of Section VIII on the review in which the Chief of Security reviews and signs off on housing assignments. Based on this process and related documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.42 (c)

Agency policy ADM.08.08, Prison Rape Elimination Act (09/22/2017) section 26.0.1 through .3 (page 27 – 28) states that, "A transgender or intersex offender will be housed based on their legal status as a male or female. Any deviation in the housing assignment of a transgender or intersex offender to a facility for male or female offenders will be determined by medical and mental health practitioners with input from program and security staff initially at the intake process. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, PSD shall consider on a case-by-case assessment of whether a placement would ensure the offender's health and safety, and whether the placement would present a management or security concern. In the event that an offender's sex designation is changed as specified under Hawaii Revised Statutes §338-17.7, 'Establishment of new certificates of birth' (effective July 1, 2015), the facility, housing, and programming assignments shall be made as indicated in .2, but the PREA Coordinator shall be included in the case-by-case assessment."

The Auditor was provided with a Health Care Report addressing the period 01/01/2018 through 12/28/2018. This report indicated that OCCC housed seven (7) transgender offenders during this time period. However, during interviews, the Audit Team was informed that this report was only as accurate as the information entered and OCCC had no effective way in which transgender, intersex and gender non-conforming offenders are tracked within the facility and therefore does not have accurate population numbers. Members of the Audit Team were informed all offenders coming to the facility from area courts would go through Module 5 (housing / intake) where the lieutenant assigns housing. If an offender disclosed transgender status, the lieutenant would review OffenderTrak for separation and other issues and assign housing accordingly. The PCM is working with staff from the HQ PREA Unit to establish some form of tracking, documentation, and review system.

In an interview with an individual who completes risk assessments, it was noted that if a transgender offender has any concerns, it would be identified in OffenderTrak; otherwise these offenders would be housed in the same manner as any other offender. During other interviews conducted, staff identified the PCM as the one responsible for transgender and intersex offender housing reviews; however, he reported that he did not yet have an adequate tracking system established yet. Other staff indicated that another manager was responsible for these reviews. As a result, the Auditor requested information regarding the processes in place for initial and bi-yearly reviews as well as documentation of said reviews. As of the writing of this report (03/24/2019), this documentation had not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the establishment of a tracking system, assignment of responsibilities regarding initial and twice-per-year reviews, completion of reviews for existing applicable offenders, and completion of reviews for all applicable offenders received during the corrective action period.

UPDATE – 04/15/2019 The Auditor reviewed housing reviews for a total of eight (8) offenders. The facility was using the initial PREA risk assessment as the initial review for these offenders, which did not meet the requirements of the standard.

UPDATE – 09/13/2019 The Auditor was provided with the following process for the review of transgender and intersex offenders implemented by OCCC:

CM [Case Manager] receives the new list of LGBTI candidates for OCCC.

CM prints the forms and goes to each housing unit for review.

Once the review is completed, CM will log review form in our LGBTI log and send [the PMC] a copy.

CM will file the form in our LGBTI file.

The Auditor was provided with clarification that transgender and intersex offenders are identified on entry and the information is then included in the health care report. The offender is then evaluated by medical and mental health care providers to assess any identified risk or need. This information is then provided to the Lieutenant responsible for housing decisions and the offender's assigned Case Manager, who add information as applicable to the initial assessment. The Auditor was provided with documentation confirming the completion of the identified reviews. Based on this process and documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.42 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0.3 and .4 (page 28) requires that, "Biannually designated facility staff identified by the Warden shall reassess the placement and programming assignment of each transgender and intersex offender for the purpose of assessing any threats to the safety of the offender. This biannual assessment shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317) and/or may be conducted as part of a classification review for the transgender or intersex offender. The completed PREA Mandated Reporting Form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

Department of Public Safety, PREA Screening Tool Instructions (07/2015) states, "The PREA Standards requires that housing and programming assignment for each transgender or intersex offender shall be reassessed at least twice each year to review any threats to safety experienced by the offender. The two periodic reviews conducted annually should occur during initial classification and reclassifications. The Warden and/or the Facility PREA Manager shall ensure that the bi-annual reviews are documented on the PREA Mandated Reporting Form (PSD 8317) based on a list provided by the PSD PREA Coordinator."

The Auditor was provided with a Health Care Report addressing the period 01/01/2018 through 12/28/2018. This report indicated that OCCC housed seven (7) transgender offenders during this time period. However, during interviews, the Audit Team was informed that this report was only as accurate as the information entered and OCCC had no effective way in which transgender, intersex and gender non-conforming offenders are tracked within the facility and therefore does not have accurate population numbers. Members of the Audit Team were informed all offenders coming to the facility from area courts would go through Module 5 (housing / intake) where the lieutenant assigns housing. If an offender disclosed transgender status, the lieutenant would review OffenderTrak for separation and other issues and assign housing accordingly. However, the Audit Team was informed that there was no systematic review conducted or documentation of same available. During other interviews conducted, staff identified the PCM as the one responsible for transgender and intersex offender housing reviews; however, he reported that he did not yet have an adequate tracking system established yet. Other staff indicated that another manager was responsible for these reviews. As a result, the Auditor requested information regarding the processes in place for initial and bi-yearly reviews as well as documentation of said reviews. As of the writing of this report (03/24/2019), this documentation had not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the establishment of a tracking system, assignment of responsibilities regarding initial and twice-per-year reviews, completion of reviews for existing applicable offenders, and completion of reviews for all applicable offenders received during the corrective action period.

The Auditor was provided with a memorandum detailing the newly established process to ensure transgender and intersex offenders are reviewed at least every six (6) months and appropriate documentation is generated confirming the completion of those reviews. The process is as follows:

- *Case Manager completes the 30-day PREA review on the PREA SCREENING TOOL FORM (PSD 8314) and identify those that answer "YES" to Section II #6 (Lesbian / Gay / Bisexual / Transgender / Intersex / Gender Non-Conform).*
- *All PREA Screening Tool Forms that have a "YES" to Section II #6 will be forwarded to the Case Manager to complete the PREA MANDATING REPORT FORM (PSD 8317).*
- *Case Manager will interview the inmate to confirm if they identify as Transgender or Intersex. Then we will complete PSD 8317. If not, the process ends.*
- *During the interview we will assess housing issues, threats to the inmates safety, and any program participation issues.*
- *After the interview, we will provide a recommendation to address any issues that was brought up during the interview and have the inmate sign the form.*
- *Once the Case Manager signs and completes his/her process, the form is scanned and sent to the PREA Program Specialist (PSD), PREA Coordinator (OCCC) and Chief of Security.*
- *The Original PSD 8314 form, along with any reports, will be forwarded to the PREA Coordinator (OCCC) for review, signature and recommendations.*
- *The forms will be sent to the Warden for final signature and final determination.*
- *All inmates identified as Transgender or Intersex will be reassessed every 6 months.*

The Auditor was then provided with documentation detailing the arrival of the offender and all related reviews completed, reviewed and approved. Based on this process and documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.42 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0.5 (page 28) requires that, "A transgender or intersex offender's own views with respect to his or her own safety shall be given serious consideration."

In interviews of transgender offenders conducted while on site, all offenders confirmed that staff had asked them about their safety. However, based on lack of a known process and documentation as noted in previous subsections, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the establishment of a tracking system, assignment of responsibilities regarding initial and twice-per-year reviews, completion of reviews for existing applicable offenders, and completion of reviews for all applicable offenders received during the corrective action period.

Based on the review process established and documentation provided as detailed with 115.42 (d), OCCC is now assessed as compliant with the requirements of this subsection.

115.42 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0. (page 28) requires that, "Transgender and intersex offenders shall be given the option to shower separately from other offenders in dorm situations, if so requested. This provision is applicable only when individual showers are not available at the offender's assigned housing unit."

Transgender offenders interviewed while on site confirmed that they are able to shower privately, either based on schedule or on individual shower layouts.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.42 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0.7 (page 28) states, "PSD facilities shall not place LGBTI offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is established in connection with a consent decree legal settlement, or legal judgement for the purpose of protecting such offenders."

Prior to the on-site review, the Auditor requested documentation of housing assignments for all LGBTI offenders. It was determined that a list would be based on risk assessment information. The OffenderTrak system currently does not have the ability to generate such a report. However, upon arrival for the on-site review, the Audit Team was provided with a listing of LGB offenders based on input from Unit staff. Housing assignments for these offenders was reviewed and it was determined that these offenders were housed in units throughout the facility based on security status, bail amounts, medical / mental health status, physical disability, sentence status, etc. This was confirmed in interviews with staff and with LGB offenders while on site.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Department of Public Safety, PREA Screening Tool Instructions (07/2015)
- Required review of identified transgender offender
- PREA Screening Tool for identified offender
- Listing of LGB offenders housed in the facility
- Health Care Report covering the period 01/01/2018 through 12/28/2018
- PREA Screening Tools for offenders with positive risk identifiers

- Memoranda from the Deputy Warden detailing newly established procedures regarding the review / evaluation of transgender and intersex offenders
- Housing drill down reports, PREA Mandated Reporting forms, and PREA Screening Tools for identified transgender and/or intersex offenders

Interviews conducted:

- PREA Compliance Manager
- Staff Responsible for Risk Screening
- Transgender / Intersex Offenders
- Lesbian, Gay, and Bisexual Offenders

Standard 115.43: Protective Custody

115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? Yes No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? Yes No

115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? Yes No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? Yes No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? Yes No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? Yes No

115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? Yes No
- Does such an assignment not ordinarily exceed a period of 30 days? Yes No

115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility's concern for the inmate's safety? Yes No

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged? Yes No

115.43 (e)

- In the case of each inmate who is placed in involuntary segregation because he/she is at high risk of sexual victimization, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.43 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.1 and .2 (page 28) states, "PSD discourages the placement of offenders in involuntary administrative segregated housing solely because of their high risk of sexual victimization status, unless an assessment of all available alternatives has been made and it is concluded that there is no available alternative for separating the victim from a likely abuser. This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. If the PSD facility is unable to conduct the above assessment immediately, the facility may hold the offender in involuntary administrative segregated housing for a period of less than twenty-four (24) hours pending the completion of the mandated assessment."

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review. In an interview, the Warden confirmed that such placement would only be used as a last resort, when no other options were available, that applicable offenders could be placed in an exam room in health services rather than a holding cell or dry cell.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.43 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.3 through .4 (-age 28 – 29) requires that, "Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible, as dictated by the facility's schedule and operational needs. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317). This shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. The documentation shall include: (a) The programs, privileges, education, or work opportunities that have been limited; (b) The duration of the limitation; and (c) The reasons for such limitations."

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review. In interviews conducted, staff who supervise segregation confirmed that if an offender were to be placed

in this unit based on risk of victimization, the offender would be afforded general privileges as in general population and that the Chief of Security would determine if any privileges were restricted. Neither individual interviewed could recall an instance in which an offender was placed in segregated housing due to risk of victimization.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.43 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.5 (page 29) states, "If a PSD facility assigns an offender at risk of sexual victimization to involuntary administrative segregated housing as an alternative means of separation from the likely abuser, then such as assignment should not normally exceed a period of thirty (30) days."

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review. In an interview, the Warden confirmed that such placement would only be used as a last resort, when no other options were available and would end as soon as a viable alternative was identified. He noted that the offender would be placed in segregated housing only when they had no other alternative and emphasized that such a placement was not disciplinary. He added that placement at the Federal Detention Center is also an option to keep affected offenders safe and separate. The Warden noted that such a placement would be as short as possible, and that within 48 hours they should be able to find an alternative placement. Staff who supervise offenders in segregated housing reported they were unsure of alternative placements or length of placements, indicating that these were decisions made by the facility administration.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.43 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.6 (page 29) requires that, "If an involuntary administrative segregated housing is made pursuant to paragraph (1) of this section, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (a) The basis for the facility's concern for the offender's safety; and (b) The reason why no alternative means of separation can be arranged."

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.43 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.7 and .8 (page 29) states that, "If placement in involuntary administrative segregated housing exceeds the initial thirty (30) days, the facility shall conduct follow-up reviews as dictated by COR.11.01 Administrative Segregation and Disciplinary Segregation, but no less than every thirty (30) days to assess the offender's continued separation from the general population. This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

COR.11.01, *Administrative Segregation and Disciplinary Segregation* (11/28/2014) section 4.0.1.g.6 through .10 (page 7) requires the following:

Thirty (30) days after an inmate's initial placement in administrative segregation and every thirty (30) days thereafter, the Warden or designee shall personally interview the inmate, reassess the

case management action plan, and make a written record of his/her decision to either confirm the continued administrative segregation housing or to release the inmate back to the general inmate population. A copy of the decision shall be provided to the inmate on PSD 8226, Part D. The Warden shall notify the IDA [Institutions Division Administrator] every thirty (30) days of an inmate's continued placement in administrative segregation and the status of the inmate's compliance with the case management action plan. The IDA shall conduct monthly reviews of all inmates who have been in administrative segregation for thirty (30) days or more. This shall include a review of all documentation relevant to the inmate's placement including, but not limited to: Incident reports or IOMs [Inter-Office Memorandums] generated as part of the initial placement; case management action plan; documentation justifying continued placement; grievance appeals; and medical/mental health assessments. The IDA shall consider whether a transfer of the inmate to a facility where he/she may be placed in the general inmate population would be appropriate or if continued placement in administrative segregation is warranted. The IDA shall submit a written report of the results of each thirty (30) day review to the Deputy Director of Corrections (DEP-C).

One of the staff members who supervise offenders in segregation indicated he knew that regular reviews were conducted but was not involved in the process so was uncertain of timeframes. The second supervisor interviewed indicated he had just transferred to the post and was unsure of the review process. However, the Warden and Chief of Security confirmed reviews completed in accordance with policy and standard requirements.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Agency policy COR.11.01, *Administrative Segregation and Disciplinary Segregation* (11/28/2014)

Interviews conducted:

- Warden
- Staff who Supervise Offenders in Segregated Housing

REPORTING

Standard 115.51: Inmate reporting

115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment? Yes No
- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment? Yes No
- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents? Yes No

115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? Yes No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? Yes No
- Does that private entity or office allow the inmate to remain anonymous upon request?
 Yes No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?
 Yes No

115.51 (c)

- Does staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties? Yes No
- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?
 Yes No

115.51 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of inmates? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.51 (a)

ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0 (pages 29 – 30) states, “PSD provides multiple internal and external ways for offenders to privately report sexual abuse and sexual harassment; retaliation by other offenders or staff for reporting sexual abuse and sexual harassment; and staff neglect or violation of responsibilities that may have contributed to such incidents.” The policy articulates that offenders may report in the following manners:

- Using available means of communication, including but not limited to verbal or written reports to any PSD employee, contract employee or volunteer
- Calling or writing the Ombudsman or the Department of the Attorney General (note, the policy is missing a number in the zip code for the Attorney General), the Sex Abuse Treatment Center, the agency PREA Coordinator, the Director, a relevant Deputy Director,
- Writing to a legislative or political representative or Internal Affairs
- Contacting the facility warden or investigator at the relevant facility;
- Notifying a family member
- Filing an emergency grievance and/or
- Contacting the relevant county law enforcement agency

Offenders are provided with a brochure, “An Informational Guide for Offenders” which also indicates the above reporting options. It indicates that the offender can use the regular grievance system, as well as submitting a kite, which can be anonymous. The brochure states that calling the SATC and the ombudsman are free of charge and the offender doesn’t have to input their IPIN number. However, the GLT HI PSD Speed Dial Directions posted by offender telephones start with the requirement that the offender has to enter his/her 7-digit identification number followed by his/her 4-digit PIN which appears contradictory. Additionally, the speed dial directions also indicate that all calls may be monitored and recorded, which is not the case for calls to the advocate and ombudsman. Finally, the speed dial list also notes that dialing 55 connects the caller to Children and Family Services – Domestic Violence TRO (Hilo) when the call actually connects to the Sex Assault Treatment Center (SATC). It is strongly recommended that corrected speed dial directions be produced and reported in the proximity of offender telephones and offenders notified of the correction.

Staff and offenders interviewed all confirmed a comprehensive knowledge of the reporting venues available for reporting of PREA allegations / information.

During the last week of November 2018, test letters were sent by members of the audit team to the PREA Coordinator, Internal Affairs, Agency Director, Institutions Administrator, Deputy for Corrections, Attorney General, and Ombudsman; it is noted that the suite number for the PREA Coordinator is listed as 400 in the policy, but 116 in the information posted to the public website. The Audit Team received acknowledgement of receipt of these letters, noting that all such letters would be forwarded to the agency PREA Coordinator for action as needed and response.

While on site, members of the Audit Team attempted tests of the ability of offenders to place calls to the Ombudsman, victim advocate and PREA Coordinator hotline. Calls to the victim advocate and

Ombudsmen were able to be placed without an offender identification number. The Auditor also received confirmation of calls placed via notification to the HQ PREA Office as requested by the caller.

Additionally, while on site, a member of the Audit Team dropped a kite in a box available for offenders. The Auditor received confirmation from the Chief of Security that the kite had been received and processed in accordance with policy and local procedures.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.51 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.4 (page 30) indicates that “PSD provides notification to offenders how to report abuse or harassment to a public entity, or an external agency, who is able to receive and immediately forward offender reports of sexual abuse and sexual harassment to agency officials, such as the Department PREA Coordinator and may allow the offender to remain anonymous upon request.” The Auditor was also provided with a brochure entitled “An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors” (dated 10/17/2018) that stated,

External/Confidential/Anonymous Reporting Options – SATC is also an option for emotional support counseling services:

- You may contact the designated EXTERNAL & CONFIDENTIAL agencies (SATC @ 808-524-7273 or State Ombudsman @ 808-587-0770) via the GTL HI PSD Speed Dial List & Instructions, to report any sexual abuse or sexual harassment by an inmate or staff member.
- You may contact the Sex Abuse Treatment Center Hotline (808-524-7273) utilizing the GTL HI PSD Speed Dial List & Instructions, to report any sexual abuse and/or obtain Emotional Support Counseling Services.
- These calls are free of charge. It does not require inputting your pin number and at your option are CONFIDENTIAL & EXTERNAL options.
- You may also file a criminal complaint within the appropriate County Police Department as an EXTERNAL reporting option.
- State Ombudsman’s Office – 06

Also provided to the Auditor was the HI PSD Speed Dial List with instructions for use: (NOTE the speed dial instructions indicate that the caller must dial 0 for a collect call and enter their 7-digit Inmate ID number followed by the individual’s 4-digit PIN number. This is contrary to the information provided in the brochure.).

An interview with the PCM confirmed the ability of offenders to report allegations to the Ombudsman as the external, independent report entity. However, interviews with offenders revealed that most did not understand the ability to report via this venue. When asked if they could report to someone outside the facility, most indicated they would report to a family member or attorney. Most offenders indicated they would report to an ACO, another staff member, or another offender.

The information from the website for the Hawaii Ombudsman provided indicates, “By law, the Ombudsman is authorized to investigate the administrative actions of state and county agencies...We are authorized by law to receive inquiries on a confidential basis. If we can, we will investigate your complaint without revealing your identity, although this is not always possible. If you have concerns with confidentiality, please feel free to discuss them with us.” Additionally, during discussions while on site and following the on-site review, it was learned that since the Ombudsman is available by phone, offenders normally do not write to them. Per the former PREA Coordinator, if the Ombudsman received a complaint, then they would: (1) First determine if the inmate wants to remain anonymous. (2) If yes, they would provide the details and keep the inmate anonymous to the PREA Coordinator to initiate an investigation and other action. (3) If no, they will provide all information to the PREA Coordinator to initiate

an investigation and other action. While on site, members of the Audit Team were able to place calls to the Ombudsman's Office using an offender telephone. However, when the Audit Team member placing the call was connected to a live person, he was informed that the individual he needed to speak with was not available at that time and was asked if the individual could call him back. The Audit Team member provided information regarding the ability of offenders to receive call back telephone calls, so he was then advised to call back at a later time. As a result, it is recommended that some additional training be provided to those individuals who may answer these calls regarding the status of the offender and his/her ability to accept return phone calls.

The Auditor was informed that OCCC did not have a handbook for offenders; however, the Auditor was provided with a booklet entitled "Oahu Community Correctional Center Adult Correctional Officer's Inmate Conduct and Behavioral Reference Guide" (January 2015). The Auditor was informed that the information contained was intended to assist ACO's but was also posted on housing units in order to share procedural information with offenders. It is noted that an earlier version dated 2006 was also located during a web search for OCCC and therefore needs to be updated to the current version. The booklet notes the following:

- Telephone –
 - .5 Inmates will not call any office or staff member within this facility. Inmates will not call any State of Hawaii Official without prior approval.
 - Daytime calls to the Ombudsman's Office and ACLU must be requested in writing by submitting an Inter-Unit request to the Sergeant on duty. The Module Sergeant or Residency Lieutenant may approve disapprove the call. If approved, these calls will be made at the staff's earliest convenience on the day the request is approved. Correspondence by mailed letter is the preferred method of communication.
 - .8 All calls shall be logged by staff.

The requirement to receive approval for offenders to contact the Ombudsman and the logging of all calls made is contradictory to the standard requirement for offenders to contact this external, independent entity to report allegations of sexual abuse and harassment. Per the Program Specialist, this information is incorrect, and offenders are now able to use the GTL phone system to place calls without oversight or tracking by staff. As this incorrect information has been provided to offenders via posting and is accessible to all staff, OCCC is non-compliant with the elements of this subsection. The Auditor was later provided with a notification to all offenders from the agency Director, dated 01/02/2018, regarding changes to telephone access. This directive reads in part, "All personal inmate telephone calls, with the exception of identified legal calls, are subject to monitoring and recording...Any legal calls that are **not** identified as an attorney number on PSD 8733, Inmate Personal Allowed Numbers, shall not be protected from recording or monitoring." Although the notification indicates that calls to the Ombudsman are free of charge, the preceding language appears to indicate that they are subject to monitoring. Additionally, the calls to the victim advocate also appear to be subject to monitoring according to this notification.

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.5 (page 30) states, "If an offender is detained solely for civil immigration purposes, the offender shall be provided with information on how to contact the relevant consular officials and relevant Department of Homeland Security officials. It should be noted that PSD does not normally house offenders solely for civil immigration purposes."

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the removal of the noted reference booklet from all areas of the facility and the provision of correct information to all facility staff and offenders. The provision of this corrected information should also address the demonstrated lack of knowledge expressed by the offender population.

UPDATE – Per 07/29/19 email from the Program Specialist, the information was only in module 20 and had been removed while we were till on site. She also noted that the facility received new copies of the

brochures which were posted in the modules and intake services. However, the team saw the document posted while on site and the Auditor located an earlier version of the information when doing a web search for the facility. What had been agreed to was the removal of the information from the facility, which the Program Specialist indicated has now occurred, along with something put out to staff that the information is outdated, providing them with the correct information. Also requested the provision of photographs of the posting of the corrected new brochures.

UPDATE – 09/17/2019 The Auditor received documentation of the PREA posters and brochures titled, “An Information Guide for Offenders” being poster throughout all Modules in the facility. This information corrected the previous erroneous information that had been previously posted. The Auditor was also provided with a 09/12/2019 memo issued by the Warden to all facility staff which also corrected the erroneous information and reads as follows:

This is a reminder that inmates have several ways of reporting PREA incidents as follows:

- *Inmates may report to staff verbally or in writing and staff must submit a written report.*
- *Inmates may use the GTL phone system to call the Sex Abuse Treatment Center, PSD PREA Coordinator, attorneys or family members.*
- *Inmates may write to the Department administrators, Internal Affairs or use the Grievance process and they are not required to first use any informal process.*

Inmates wanting access to additional emotional support for sexual abuse and/or support service may use the GTL phone system speed dialing instructions to contact the Sex Abuse Treatment Center. An updated informational guide for offenders is attached for your reference. These are also posted in all housing units and issued to inmates during admission.”

Based on the above, OCCC is now assessed s compliant with this subsection.

115.51 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.6 (page 30) state, “PSD mandates that staff accept reports of sexual abuse, sexual harassment, or retaliation made verbally, in writing, anonymously, and from third parties. Staff shall immediately document all verbal reports of sexual abuse, sexual harassment, or retaliation by immediately notifying superiors through the chain of command.”

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, “Offenders, staff and others may report incidents of sexual abuse, sexual harassment, and retaliation for reporting by (allowing reporter to remain anonymous upon request): Contacting the Ombudsman; Mailing a letter to the Department PREA Coordinator; Mailing a letter to Internal Affairs, a Facility Investigator, a Warden, Deputy Director, or Director; Notifying a family member who can initiate a telephone call or a letter to Key Staff indicated above; or Filing an Emergency Offender Grievance Complaint.” Per the Program Specialist, staff are required to complete an incident report which is then submitted to the Watch Commander, who is required to submit the Mandated Reporting form to the PREA Coordinator.

Staff interviewed confirmed a knowledge of and compliance with the requirement to immediately report all allegations regardless of the source of the information received. Overall, offenders interviewed reported an understanding of the ability to make reports of sexual abuse or sexual harassment either in person or in writing as well as the use of a third party.

A review of the reports related to allegations received during the documentation period indicated that staff responded to allegations received as required by policy. Staff reported allegations regardless of source of information or reporting method. Staff interviewed were knowledgeable about reporting requirements, regardless of the method in which the allegation was reported; however, a few staff indicated they would require the offender write down any verbal reports made. It is recommended that a reminder of reporting requirements be provided to facility staff.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.51 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 28.0.7 (page 30) states, “A staff member may privately report incidents of offender sexual abuse, offender sexual harassment, or retaliation as indicated in paragraph (4) of this section.” It is noted that paragraph (4) details all the venues available for offenders to report. This information is included in the policy section on offender reporting, but there is nothing included in the policy section on staff reporting. It is recommended that on the next policy revision, the information about privately reporting be added to the staff reporting section of this policy.

During interviews conducted while on site, staff were knowledgeable about ways in which they could privately report PREA-related information, to include reporting to someone higher up in the chain of command, reporting to another Watch Commander, or using any of the reporting venues available for offenders.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Brochure entitled “An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors” (dated 10/17/2018)
- GTL HI PSD Speed Dial Instructions (undated)
- Excerpt from the agreement with the Sex Abuse Treatment Center
- Excerpt from the public website of the State of Hawaii Ombudsman
- Curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Oahu Community Correctional Center Adult Correctional Officer’s Inmate Conduct and Behavioral Reference Guide (January 2015 and 2006 versions)
- Allegation documentation packets / investigation reports available for 36 allegations received in the 12 months prior to the on-site review
- Photographs of PREA poster ad Informational Guide for Offenders brochure posted in all housing units
- 09/12/2019 email from Warden to all facility staff regarding inmate reporting and access to confidential support services

Interviews conducted:

- Random Sample of Staff
- Random Sample of Offenders
- PREA Compliance Manager

Standard 115.52: Exhaustion of administrative remedies

115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse.
 Yes No NA

115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) Yes No NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
 Yes No NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) Yes No NA
- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)
 Yes No NA

115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)
 Yes No NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) Yes No NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
 Yes No NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (g)

- If the agency disciplines an inmate for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the inmate filed the grievance in bad faith? (N/A if agency is exempt from this standard.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.52 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.1 (page 31) states, "PSD's policy COD.12.03: Inmate Grievance Program outlines the administrative procedures available to offenders for reporting incidents of sexual abuse, sexual harassment, or retaliation." The remainder of section 29.0 details timeframes, third party submissions, and other procedures related to grievance containing PREA allegations.

Based on the above, OCCC is not exempt from standard 115.52 as the agency has in place administrative procedures to address offender grievances, along with PREA-related grievances.

115.52 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.2 (page 31) states, "This section is an addendum to COR.12.03: Inmate Grievance Program as it related to PREA incidents. PREA mandates that there shall be 'no time limits or deadlines' for filing a grievance that is reporting an alleged incident of sexual abuse. (a) PSD shall not restrict the processing of an offender grievance regarding an allegation of sexual abuse. (b) The filing period set forth in COR.12.03: Inmate Grievance Program is still applicable to any portion of the grievance that does not allege an incident of sexual abuse. The offender must still comply with appeal filing requirements as set forth in COR.12.03. (c) PSD shall not require an offender to utilize the information grievance process for grievances alleging incidents of sexual abuse. (d) The statutory or legal provisions to the statute of limitations are applicable to any civil action in a court proceeding."

Clarification regarding this policy language was requested from the former PREA Coordinator as policy appears to indicate that there are no time limitations associated with sexual abuse allegations, but limitations may apply to grievances regarding allegations of sexual harassment or retaliation. It was reported that all grievances would fall under these provisions. As a result, it is recommended that clarification be added to policy on its next revision.

The Auditor was informed that OCCC did not have a handbook for offenders; however, the Auditor was provided with a booklet entitled "Oahu Community Correctional Center Adult Correctional Officer's Inmate Conduct and Behavioral Reference Guide" (January 2015). The Auditor was informed that the information contained was intended to assist Adult Correctional Officers but was also posted on housing units in order to share procedural information with offenders. It is noted that an earlier version dated 2006 was also located during a web search for OCCC and therefore needs to be updated to the current version. The booklet notes the following:

5. Control Station –

.8 Grievance forms shall be issued upon request and the number entered in the appropriate logbook. Ensure one topic/issue per grievance form. Attempt resolution through the informal process before submitting any grievance. Grievances must be submitted within 14 days on which the basis of the alleged complaint occurred.

These requirements associated with grievances is contradictory to standard and policy requirements regarding grievances alleging sexual abuse and/or sexual harassment in the areas of timeframes and

resolution. Additionally, this is contrary to the requirement that staff report all PREA-related allegations received. Per information received from the Program Specialist, grievances are given when requested by an offender and there is no longer a requirement to attempt to resolve the issue through informal processes. The concern is that staff and offenders have been provided with inaccurate information that is no longer current and contrary to standard requirements.

It is noted that during the 12 months preceding the on-site review, no PREA allegations were submitted via the grievance system; as such, there was no secondary documentation available for review.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the removal of the noted reference booklet from all areas of the facility and the provision of correct information to all facility staff and offenders.

UPDATE – Per 07/29/19 email from the Program Specialist, the information was only in module 20 and had been removed while we were till on site. She also noted that the facility received new copies of the brochures which were posted in the modules and intake services. However, the team saw the document posted while on site and the Auditor located an earlier version of the information when doing a web search for the facility. What had been agreed to was the removal of the information from the facility, which the Program Specialist indicated has now occurred, along with something put out to staff that the information is outdated, providing them with the correct information. Also requested the provision of photographs of the posting of the corrected new brochures.

UPDATE – 09/17/2019 The Auditor received documentation of the PREA posters and brochures titled, “An Information Guide for Offenders” being poster throughout all Modules in the facility. This information corrected the previous erroneous information that had been previously posted. The Auditor was also provided with a 09/12/2019 memo issued by the Warden to all facility staff which also corrected the erroneous information and reads as follows:

This is a reminder that inmates have several ways of reporting PREA incidents as follows:

- *Inmates may report to staff verbally or in writing and staff must submit a written report.*
- *Inmates may use the GTL phone system to call the Sex Abuse Treatment Center, PSD PREA Coordinator, attorneys or family members.*
- *Inmates may write to the Department administrators, Internal Affairs or use the Grievance process and they are not required to first use any informal process.*

Inmates wanting access to additional emotional support for sexual abuse and/or support service may use the GTL phone system speed dialing instructions to contact the Sex Abuse Treatment Center. An updated informational guide for offenders is attached for your reference. These are also posted in all housing units and issued to inmates during admission.”

Based on the above, OCCC is now assessed s compliant with this subsection.

115.52 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.3 (page 31) allows that, “An offender may submit an offender grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. This grievance shall not be referred to the staff member, who is the subject of the grievance complaint.”

Clarification regarding this policy language was requested from the former PREA Coordinator as policy appears to limit provision of the standard only to grievances alleging sexual abuse. It was reported that all grievances would fall under these provisions. As a result, it is recommended that clarification be added to policy on its next revision.

It is noted that during the 12 months preceding the on-site review, no PREA allegations were submitted via the grievance system; as such, there was no secondary documentation available for review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.52 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.4 (page 31) states, "PSD's grievance policy and timelines may differ from the PREA requirement that a decision on the merits of the grievance or portion of a grievance alleging sexual abuse be made within ninety (90) days of the filing of the grievance. (a) Computation of the PREA 90-day time period does not include time consumed by offenders in preparing any administrative appeal. (b) PSD may claim an extension of time to respond, of up to seventy (70) day, if the normal time period for responding is insufficient to make an appropriate decision. PSD shall notify the offender in writing of any such extension and provide a date by which a decision will be made. (c) At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level."

During the audit documentation period, there were no PREA allegations reported through the grievance process. As a result, there was no secondary documentation available for review and offenders interviewed did not provide information regarding the handling of PREA-related grievances. While on site, members of the Audit Team submitted three (3) grievances through the processes established for offenders (e.g., requesting a grievance form from staff, signing for the grievance in the log book in which all grievance forms are numbered, and dropping the grievance into the designated box), one of which was marked as an emergency grievance. The grievance indicated that the purpose was to test the reporting mechanism and requested that a response be provided to the Auditor. The Auditor received confirmation of the receipt of all three (3) grievances by the Chief of Security on the same day or next day following their submission. This is compliant with the process established for the facility; that grievances including any PREA-related information are forwarded as soon as possible to the Chief of Security. This process was confirmed in an interview with the individual currently responsible for the processing of offender grievances.

The Auditor was provided with information that a total of 4,578 grievances had been received from offenders agency-wide between 01/01/2018 and 12/31/2018. A report was also provided that indicated OCCC offenders submitted a total of 1,355 grievances during the same period. This is indicative of a grievance system being used by offenders, even if they are not using grievances to report PREA allegations.

Based on the above, OCCC is assessed as compliant with the requirement of this subsection.

115.52 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.5 (page 32) states that, "PSD permits third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse and they may file such requests on behalf of offenders. (a) If a third party files such a request on behalf of an offender, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps on the administrative remedy process. (b) If the offender declines to have the request processed on his or her behalf, PSD shall document the offender's decision on the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

During the audit documentation period, there were no PREA allegations reported through the grievance process. As a result, there was no secondary documentation available for review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.52 (f)

Agency policy COR.12.03, *Inmate Grievance Program* (07/01/2015) section 8.0.3.c (page 6) states: "Grievances of an exigent nature requiring an immediate resolution or a more expedited process may be given emergency status, and put on a fast-track status. No stage of the grievance program should be deleted as each step provides a level at which administrative action can be taken however...each step can be accelerated. Emergency grievances might include, but would not be limited to grievance related to: (1) Emergency medical treatment; (2) Fire/life safety issues; (3) Claims concerning missed release dates; (4) The risk of death or serious harm, and (5) Other matters for which delay would significantly prejudice or harm the inmate, if not immediately resolved."

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.6 (page 32) PSD's current Grievance policy establishes procedures for filing an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse. This section is intended to supplement the Grievance policy by requiring that: (a) An initial response is provided within forty-eight (48) hours. (b) After receiving an emergency grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, the PSD staff member shall immediately forward the grievance or any portion thereof that alleges the substantial risk of imminent sexual abuse to a level of review where immediate corrective action may be initiated. (c) PSD shall issue a final agency decision within five (5) calendar days. The decision shall include a determination as to whether the offender is at substantial risk of imminent sexual abuse and it shall describe the action taken in response to the emergency grievance.

It is noted that policy section 28 only identifies emergency grievances as a reporting option which appears contrary to the information in section 29 that details regular grievances. Section 29.6 indicates emergency grievance are only for substantial risk for imminent sexual abuse. As a result, clarification was requested from the former PREA Coordinator. It was reported that offenders can submit allegations using both general and emergency grievances, that emergency grievances are just processed through a different route, but that all grievances are forwarded to the PREA Coordinator. As a result, it is recommended that clarification be added to policy on its next revision.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.52 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.7 (page 32) indicates that, "PSD may initiate a misconduct violation against an offender for filing a grievance or reporting related to alleged sexual abuse or sexual harassment, when PSD demonstrates that the offender filed the grievance or report in bad faith." A knowledge of policy and standard requirements was confirmed in an interview with the Offender Disciplinary Hearing Officer.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Agency policy COR.12.03, *Inmate Grievance Program* (07/01/2015)
- Report of the number of grievances files through the agency and at OCCC between 01/01/2018 and 12/31/2018
- Oahu Community Correctional Center Adult Correctional Officer's Inmate Conduct and Behavioral Reference Guide (January 2015 and 2006 versions)
- Photographs of PREA poster ad Informational Guide for Offenders brochure posted in all housing units
- 09/12/2019 email from Warden to all facility staff regarding inmate reporting and access to confidential support services

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Offender Disciplinary Hearing Officer

Standard 115.53: Inmate access to outside confidential support services

115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? Yes No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? Yes No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? Yes No

115.53 (b)

- Does the facility inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws? Yes No

115.53 (c)

- Does the agency maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse? Yes No
- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.53 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.1 (page 32 – 33) indicates that, “PSD shall provide offenders with access to outside victim advocates for support services related to sexual abuse by doing the following: (a) Providing offender with the mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations. PSD’s service provider is the SATC and its relevant outer island providers. (b) Providing inmates with mailing addresses and telephone numbers (including toll-free hotline numbers where available) for immigrant services agencies for persons detained solely for civil immigration purposes. (c) Enabling reasonable communication between offenders and these

organizations in as confidential a manner as possible, while balancing the good government and orderly running of the facility.”

The agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 18-HAS-01) that went into effect 11/16/2017, extending services until 06/30/2019. It is noted that a previous agreement was in place that went into effect in 2015, expiring 06/30/2017. The agreement includes, but is not limited to the following services:

- *Core crisis response services will be available to the sexual assault victim at all times. The hotline in all counties will enable victims to access personnel trained in crisis intervention strategies 24 hours, 365 days a year. These personnel will remain on-call, ready to assess and respond to crises over the phone as well as in-person when needed.*
- *Very frequently, additional follow-up from the initial phone intake is necessary to thoroughly address the needs of a caller...Program staff in all counties will be available to respond to these needs, and to provide the on-going crisis phone support needed while longer term counseling services are being arranged.*
- *In-person crisis counseling is available in all counties for victims and family members...Crisis counseling may entail the provision of sexual assault education to address misconceptions, support and containment of feelings and symptoms resultant from the assault, assistance with safety issues, management of familial/significant other concerns, provision of personal advocacy to assist the individual in securing rights and services from other agencies, emergency assistance, and referrals to community resources.*
- *Legal systems advocacy will be provided to support individuals as they face the criminal justice process. Program staff will inform victims of their legal rights and options, and will be available to support during the police reporting process, if desired.*
- *In situations where a victim has been sexually assaulted and is need pf medical-legal services, the program worker will respond to the examination site to provide the comprehensive services of crisis stabilization and counseling, legal systems advocacy to inform the victim of legal rights and options, and assistance with and support during the acute forensic examination. Support will be offered to the victim’s family/support system as well. Prior to ending the medical-legal contact, the program worker will discuss follow-up care and provide information about ongoing counseling services available.*

Interviews with representatives from the Kapiolani Medical Center and OCCC confirmed an understanding of the services provided and response expected under the noted MOU. Specific information regarding the provision of services to offenders was not available as messages left for the individual responsible were not returned as of the writing of this report. A member of the Audit Team did speak with one individual from the center who confirmed the basics regarding service provision per the contract, but no additional information was provided.

The Auditor was provided with the brochure, “State of Hawaii Department of Public Safety: An Informational Guide for Offenders” (10/18/2018) that includes information about how to access the Sex Abuse Treatment Center (SATC) via a telephone number or the GTL HI PSD speed dial system. The Auditor was also provided with a poster that included reporting options for offenders, to include SATC. While on site, members of the Audit Team conducted successful tests of the ability of offenders to place calls as indicated.

The Auditor was informed that OCCC did not have a handbook for offenders; however, the Auditor was provided with a booklet entitled “Oahu Community Correctional Center Adult Correctional Officer’s Inmate Conduct and Behavioral Reference Guide” (January 2015). The Auditor was informed that the information contained was intended to assist Adult Correctional Officers but was also posted on housing units in order to share procedural information with offenders. It is noted that an earlier version dated

2006 was also located during a web search for OCCC and therefore needs to be updated to the current version. The booklet notes the following:

- Telephone –
 - .5 Inmates will not call any office or staff member within this facility. Inmates will not call any State of Hawaii Official without prior approval.
 - .8 All calls shall be logged by staff.

The direction that all call are to be monitored is contradictory to the standard requirement that, “reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.” Per the Program Specialist, this information is incorrect, and offenders are now able to use the GTL phone system to place calls without oversight or tracking by staff. As this incorrect information has been provided to offenders via posting and is accessible to all staff, OCCC is non-compliant with the elements of this subsection. The Auditor was later provided with a notification to all offenders from the agency Director, dated 01/02/2018, regarding changes to telephone access. This directive reads in part, “All personal inmate telephone calls, with the exception of identified legal calls, are subject to monitoring and recording...Any legal calls that are **not** identified as an attorney number on PSD 8733, Inmate Personal Allowed Numbers, shall not be protected from recording or monitoring.” The calls to the victim advocate appear to be subject to monitoring according to this notification.

Random offenders interviewed as part of the on-site review revealed that approximately half understood the availability of external support / advocacy services. However, many believed that these services were for substance abuse services, health related services, or counseling similar to Alcoholics Anonymous. Only one of the three applicable offenders who reported allegations and who were interviewed as part of the on-site review indicated that the facility provided them with mailing addresses and telephone numbers for outside services. The one offender who acknowledged receipt of this information noted the number is posted at the phones and there is a pamphlet detailing services.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the removal of the noted reference booklet from all areas of the facility and the agency’s public website and the provision of correct information to all facility staff and offenders. The provision of this corrected information should also address the demonstrated lack of knowledge regarding advocacy support services expressed by the offender population.

UPDATE – Per 07/29/19 email from the Program Specialist, the information was only in module 20 and had been removed while we were till on site. She also noted that the facility received new copies of the brochures which were posted in the modules and intake services. However, the team saw the document posted while on site and the Auditor located an earlier version of the information when doing a web search for the facility. What had been agreed to was the removal of the information from the facility, which the Program Specialist indicated has now occurred, along with something put out to staff that the information is outdated, providing them with the correct information. Also requested the provision of photographs of the posting of the corrected new brochures.

UPDATE – 09/17/2019 The Auditor received documentation of the PREA posters and brochures titled, “An Information Guide for Offenders” being poster throughout all Modules in the facility. This information corrected the previous erroneous information that had been previously posted. The Auditor was also provided with a 09/12/2019 memo issued by the Warden to all facility staff which also corrected the erroneous information and reads as follows:

This is a reminder that inmates have several ways of reporting PREA incidents as follows:

- *Inmates may report to staff verbally or in writing and staff must submit a written report.*
- *Inmates may use the GTL phone system to call the Sex Abuse Treatment Center, PSD PREA Coordinator, attorneys or family members.*
- *Inmates may write to the Department administrators, Internal Affairs or use the Grievance process and they are not required to first use any informal process.*

Inmates wanting access to additional emotional support for sexual abuse and/or support service may use the GTL phone system speed dialing instructions to contact the Sex Abuse Treatment Center. An updated informational guide for offenders is attached for your reference. These are also posted in all housing units and issued to inmates during admission.”

Based on the above, OCCC is now assessed s compliant with this subsection.

115.53 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.2 (page 33) specifies that, “PSD medical and mental health staff shall inform offenders, prior to giving them access to outside support services, of the extent to which such communications will be monitored. PSD shall inform the offenders of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply for disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law.”

The Auditor was provided with the brochure provided to offenders regarding PREA, which includes information about access to victim advocacy support services. This brochure says, in part, “External/confidential/anonymous reporting options. SATC is also an option for emotional support counseling services... You may contact the Sex Abuse Treatment Center Hotline (808-524-7273) utilizing the GTL HI PSD Speed Dial List & Instructions, to report any sexual abuse and/or to obtain Emotional Support Counseling Services.” This information provided is not sufficient to meet the requirements of the standard regarding the informing of offenders of the extent to which communications with victim advocates will be monitored and the extent to which reports of abuse will be forwarded. Additionally, during on-site interviews, offenders predominately expressed a lack of knowledge regarding advocacy support services overall, and particularly related to privacy regarding communications with these individuals. Of the three applicable offenders who had reported allegations and who were interviewed during the on-site review, one noted that calls were not confidential and a second noted the phones are near each other and, therefore, calls are not confidential.

As a result, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a revision to the information currently provided to offenders or the development of a brochure for offenders specific to access to advocacy support services that includes the standard required information. Corrective action should also include some form of offender education regarding advocacy services.

UPDATE: The Auditor was provided with an updated brochure provided to offenders. The brochure now reads,

The designated EXTERNAL & CONFIDENTIAL agencies above are Sex Abuse Treatment Center (SATC) @808-524-7273 or State Ombudsman @ 808-587-0770 via the HI PSD Speed Dial List or you may write to report any sexual abuse or sexual harassment by an inmate or staff member. Your contact with SATC can be in writing or the Hotline at (808-524-7273) by utilizing the HI PSD Speed Dial List, to CONFIDENTIALLY report any sexual abuse or harassment incident and/or to obtain Emotional Support Counseling Services.

These calls are free and for SATC a pin is not required. You may elect to remain anonymous and be CONFIDENTIAL, which means your identity and report will not be disclosed to PSD, unless authorized the release or your statement indicates that you will harm yourself or others.

Based on the revisions to the offender brochure, OCCC is now assessed as compliant with the requirements of this subsection.

115.53 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.3 (page 33) states, “PSD maintains agreements with community service providers through SATC based on the awarded contract by the Executive Branch. The SATC provides offenders with emotional support services related

to sexual abuse. PSD maintains a copy of the grant award to SATC to document the relationship and obligations for SATC and PSD.”

The agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015. This agreement expired 06/30/2017. A second agreement (18-HAS-01) extends the previous contract until 06/30/2019.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Agreement with the Kapiolani Medical Center for Women and Children, Sex Abuse Treatment Center (KNCWC-SATC) (18-HAS-01) which extends the previous contract until 06/30/2019
- Photographs of PREA poster ad Informational Guide for Offenders brochure posted in all housing units
- 09/12/2019 email from Warden to all facility staff regarding inmate reporting and access to confidential support services

Interviews conducted:

- Random Sample of Offenders
- Offenders who Reported Sexual Abuse
- Representatives from the Community-Based Victim Advocacy Organization

Standard 115.54: Third-party reporting

115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? Yes No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.54

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 31.0 (page 33) states, “PSD provides the public notice via PSD’s website of the methods for third-party reports of offender sexual abuse or sexual harassment. PSD publicly distributes information on how to report information on how to report offender sexual abuse or sexual harassment on behalf of offenders by posting on PSD’s website the Department PREA Policy, PREA Handout, PREA poster, etc.”

The Auditor reviewed the agency’s public website at www.hawaii.gov/psd. The site contains general explanatory information regarding PREA and the PREA poster for inmates, staff and family members. The poster includes information about how to report by writing or calling:

- The Department PREA Coordinator;
- PSD Internal Affairs;
- The Office of the Ombudsman;
- PSD Director, Deputy for Corrections, or Institutions Administrator;
- The Sex Abuse Treatment Center; and
- Facility Administrators, Facility PREA Compliance Manager, and the County Police Departments.

Additionally, a poster containing PREA-related information was observed in the visiting room, on the window of the officer’s station. It is recommended that additional posted be added to areas within the facility where they might be viewed by the public (e.g., public access, additional posters in the visiting room).

A reporting option on the poster for family/friends is the Sex Abuse Treatment Center (SATC). Per discussions with the former PREA Coordinator, based on confidentiality parameters afforded victim advocacy organizations, SATC staff would only report the information if the caller agreed.

During the last week of November 2018, test letters were sent by members of the audit team to the PREA Coordinator, Internal Affairs, Director, Institutions Administrator, Deputy for Corrections, Attorney General, and Ombudsman; it is noted that the suite number for the PREA Coordinator is listed as 400 in the policy, but 116 in the information posted to the public website. The Audit Team received acknowledgement of receipt of these letters, noting that all such letters would be forwarded to the agency PREA Coordinator for action / response as needed.

Members of the Audit Team tested the ability for member of the public to call designated numbers to report PREA-related issues with the following results:

- The PREA Coordinator – The telephone rang 15 times and the caller was not provided with the opportunity to leave a message.
- The Director, Institutions Administrator and the Deputy for Corrections – The telephone number in policy and on the public website is for the Office of the Director. A voice message was left requesting confirmation of receipt of the message via return email. The Auditor was informed by the PREA Coordinator that these messages would be forwarded to her to address.
- Internal Affairs – The Auditor received confirmation from the PREA Coordinator of the receipt of the letter submitted to the Internal Affairs Office. When the telephone number on agency's public website was called, the individual answering the call could not explain the process that would be implemented if the caller was reporting PREA-related information, indicating that the Chief would be the individual who would address such calls. Following the placement of an additional call to obtain clarification, the caller was informed that all PREA related incidents are taken seriously, all information collected is documented in a report format and the Warden is notified immediately to ensure the safety of the victim and collect any evidence at a crime scene if required.
- Sex Abuse Treatment Center – A voicemail was left when the number on the public website was called. The call was returned, and the caller was informed that any PREA allegations received by the organization would be reported to the PREA Coordinator to address. A letter was also submitted per the public website, but as of the writing of this report, no response has been received.
- Ombudsman – Two attempts to reach the office by telephone were attempted using phones in the community. Once the phone was answered by a receptionist who forwarded the call to a specialist, and a voice message was left. A second call was placed, and another message left, but neither message was responded to. The letter submitted to the address on the public website was responded to by the PREA Coordinator who reported, "The Ombudsman are easily accessible by phone, so inmates normally do not write to them. Ombudsman is a speed dial number and free. If the Ombudsman received a complaint, then they would:
 1. First determine if the inmate wants to remain anonymous.
 2. If yes, they would provide details and keep the inmate anonymous to the PREA Coordinator to initiate an investigation and other action.
 3. If no, they will provide all information to the PREA Coordinator to initiate an investigation and other action."
- Department of the Attorney General – Two attempts were made to contact the Attorney General's office via the telephone number posted on the agency's public website. The number posted (808-586-1500) is the number for the Hawaii Government Information Line. There is nothing in the introduction regarding PREA. The recording gives you options to connect with various government offices, but the Attorney General's Office is not one of the choices. The caller selected "6" for other government agencies and then was instructed to press "2" for the Attorney General's Office. The system said, "please wait while I connect you" and then it said, "the call cannot be completed" and then loops back into the introductory information. The caller again selected option "2" with the same results. The called then hung up and attempted the call again following the same sequence with the same results.

Based on the standard requirement that venues are available to receive reports and there is no requirement to provide a response to these reports, OCCC is assessed as compliant with the requirement of this subsection. However, it is recommended that information regarding response is included in the next revision to poster and website information or a method to ensure response requirements are developed. Additionally, it is recommended that information regarding response procedures are shared with these entities and the issue with the ability to contact the Attorney General's office be resolved to ensure a response is received in some manner from each call or letter received.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- No formal interviews were indicated by the DOJ templates or Auditor Compliance Tool.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? Yes No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment? Yes No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? Yes No

115.61 (b)

- Apart from reporting to designated supervisors or officials, does staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions? Yes No

115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? Yes No
- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? Yes No

115.61 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws? Yes No

115.61 (e)

- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.61 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.1 through 3 (page 33) states that, "PSD requires that all staff immediately report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, or a non-PSD facility. PSD requires that all staff immediately report, any knowledge, suspicion, or information they receive regarding retaliation against offenders or staff, who reported such an incident. PSD requires that all staff immediately report any knowledge, suspicion, or information, they receive regarding staff neglect or violation of responsibilities that may have contributed to a PREA incident or retaliation." The requirement to complete a PSD PREA Response Incident Checklist (PSD 8313) for all allegations of sexual abuse and sexual harassment, with submission of the completed form to the Agency PREA Coordinator, is included in the 2017 training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017*).

The requirement to report was confirmed in all interviews conducted with OCCC staff.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.61 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.4 (page 34) indicates, "PSD prohibits staff from revealing any information related to a sexual abuse report to anyone other than and to the extent necessary to manage treatment, investigation, and other security decisions, inclusive of reporting to the designated supervisors or officials and designated State or local service agencies." This is also addressed in the 2017 training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017*). Knowledge regarding confidentiality restrictions was confirmed in interviews conducted with staff during the on-site review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.61 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.5 (page 34) requires that, "Unless otherwise precluded by federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraphs (1-3) of this section and to inform offenders of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services."

During the on-site review, the Auditor was informed by medical providers that offenders new to the facility are asked about prior sexual abuse during the medical intake and chart review. The Auditor was provided with an example of a completed Chart Review form where this information would be documented. The form includes the following questions:

- Victim of sexual assault / abuse;
- If response is yes, what is the nature of the sexual abuse; and

- Abuse / assault reported to Watch Commander.

This allows the provider to document all pertinent information in one location, including the reporting of information received.

The mental health practitioner interviewed clearly articulated the requirement to inform offenders of the limits to confidentiality before the provision of services, indicating that this is explained to every offender during intake. However, medical practitioners articulated that this information is provided to an offender only when the offender has come for services and starts disclosing something related to PREA. Medical practitioners also indicated that information regarding confidentiality is globally shared with offenders during the facility intake process. The information is regarding protected communication with offenders under the Health Insurance Portability and Accountability Act (HIPAA) which indicates that all communications with a patient are confidential and, therefore, contradictory to the reporting requirement specified in this subsection. As a result, this subsection is being assessed as non-compliant and corrective action is indicated. Corrective action should involve a reminder to all medical practitioners of the subsection requirement and policy mandates to provide the information at the initiation of services. Additional actions could include revision to the offender handbook to include this information as well as posting this information in medical and mental health offender accessible areas.

UPDATE: The Auditor was provided with a notification for offenders that is now posted in all medical / mental health areas. This notice informs offenders prior to the onset of services of the reporting requirements of all medical and mental health staff. Additionally, the Auditor was provided with a template of the chart review and offender assessment conducted by medical staff for all incoming offenders. The template includes confirmation that, "explained that institutional abuse is required to be reported, explained that community abuse requires patient consent...NOT required <18 yrs..." Based on this information, OCCC is now assessed as compliant with the requirements of this subsection

115.61 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.6 through 8 (page 34) requires that, "If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a state or local 'vulnerable person's statute,' PSD shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. HRS §346, Part X: Adult Protective Services, defines a "vulnerable adult" as a person eighteen (18) years of age or older who because of mental, developmental, or physical impairment, is unable to: (a) Communicate or make responsible decisions to manage his/her own resources; (b) Carry out or arrange for essential activities of daily living; or (c) Protect oneself from abuse, including physical abuse, psychological abuse, sexual abuse, financial exploitation, caregiver neglect, or self-neglect. HRS §346, Part X: Adult Protective Services, mandates that personnel employed in health care, social services, LE, and financial assistance are required to report suspected abuse or neglect of a vulnerable adult. The law mandates reporting when there is reason to believe abuse has occurred or the vulnerable adult is in danger of abuse, if immediate action is not taken."

During the 12 months preceding the on-site review, there were no allegations reported involving a youthful offender or a vulnerable adult. OCCC does not house youthful offenders. It was confirmed in an interview with the Warden that if an offender currently housed at the facility reported a historical allegation that involved a juvenile facility, the allegation would be reported to that facility as well as the appropriate agency having jurisdiction (e.g., law enforcement, child protective services, etc.). An interview with the former PREA Coordinator and Program Specialist confirmed that offenders under the age of 18 are not housed at this facility. It was also disclosed that during intake, a health assessment is completed which identifies those offenders who are classified as vulnerable adults. The Chief of Security (COS) is notified regarding any identified offenders. The COS then works with medical staff to determine appropriate housing for the offender.

To ensure that offenders are appropriately designated and tracked as vulnerable adults, all offenders are

seen during initial admission by medical and mental health staff and a thorough assessment is conducted. This is documented on Intake Health Assessment and Intake Health History forms, with separate forms for male and female offenders. Additionally, any concerns by Intake staff during the intake process are raised with medical and mental health staff. If an offender is determined to be a vulnerable adult per state law, the offender is flagged in the OffenderTrak system. If an offender who is classified as a vulnerable adult reports an allegation, Adult Protective Services is notified by facility health care staff or by local law enforcement. There is clear communication between Watch Commanders and health services staff to ensure applicable care is provided and information shared to ensure these notifications are made when indicated.

It is noted that the definition of vulnerable adult as outlined in state law (HRS § 346-222) is included in the curriculum, *Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017, which is training required of all staff. Included in this training is information regarding mandatory reporting requirements.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.61 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 32.0.9 (page 34) indicates that, "PSD shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, through the chain of command and a copy shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

An interview with the Warden confirmed that all allegations are forwarded to designated investigators, regardless of the manner in which these allegations were received. Per the Program Specialist, all allegations are reported through the chain of command up to the Warden. If the incident is deemed to be a priority, reporting continues up to the Director. The Wardens delegates the assignment of investigations to the Chief of Security and the PREA Compliance Manager tracks completion or may be assigned the investigation himself. The Auditor was provided with the PREA Incident Process Map (09/2017) which details this process. The Auditor was also provided with a directive from the Director of the Department of Public Safety (dated 07/01/2015) which lines out the prioritization of incident reporting and notifications throughout the Department. This directive indicates that, "Any Prison Rape Elimination Act (PREA) reported incident of Sexual Abuse or criminal incident of Sexual Harassment (usually involves a threat)" is considered a Priority I incident, requiring immediate telephone notification "...through the Facility, Law Enforcement, and Department (Division Administrator, Deputy Director, and Director) chain of command and the Public Information Officer (PIO) as soon as possible. Following the chain of command notification, the Director shall direct IAO [internal Affairs Office] and/or the AG [Attorney General] Investigator as needed. The details/reports are to be emailed to the individuals in the chain of command by the end of the shift."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "PSD requires all staff to report: Any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility; Retaliation against inmates or staff who reported such an incident; and Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation." Information regarding the reporting process is also detailed in this training.

The Auditor was provided with allegation documentation packets or investigation reports related to the 36 allegations reported in the 12 months preceding the on-site review. A review of these packets confirmed that allegations were reported up the receiving staff member's chain of command as required by policy. The allegation was then reviewed by the Headquarters PREA Office and the Warden is email to conduct applicable investigations.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- PREA Incident Process Map (09/2017)
- Director Memorandum Incident Reporting and Notification (07/01/2015)
- Allegation documentation packets / investigation reports available for 36 allegations received in the 12 months prior to the on-site review
- Intake prison female health assessment form
- Intake prison female health history form
- Intake prison male health assessment form
- Intake prison male health history form
- Informed Consent for Mental Health Services form
- Medical Chart Review template
- Posters hung in medical and mental health notifying offenders of the staff member's duty to report

Interviews conducted:

- Random Sample of Staff
- Medical and Mental Health Staff
- Warden
- PREA Coordinator

Standard 115.62: Agency protection duties

115.62

- When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.62

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.1 and .2 (page 34) requires that, "When a Facility or PSD staff learns that an offender is subject to a substantial risk of imminent sexual abuse, the party shall take immediate action to protect the offender. Immediate action means to assess appropriate protective measures without unreasonable delay. The procedures are dictated by this policy and other relevant departmental policies." Knowledge of actions to be taken with the primary purpose of protecting the offender were clearly articulated in interviews with the Director's designee, Warden, and random OCCC staff. Many staff reported they would ensure the alleged victim was taken to medical and all reported that their first actions would be to separate applicable offenders. The Warden reported that all allegations would be reviewed and placement in protective custody or other form of separation may be considered as needed. Due to limited segregated housing space, such housing would only be short term (gap housing) for incidents such as an offender who is easily victimized because of cognitive limitations. He added that, with protective custody, the facility would look at who is the predatory offender and how that situation can be addressed; that separation and safety are first concerns. It was also reported that female offenders may be placed in the acute mental health unit since they cannot be placed in holding. With these specialty holding areas, the female offender is able to come out their cells when the rest of the unit is locked down. If the female inmate's security level increases to maximum, she would then be transferred to the female prison facility even if they are not yet sentenced. Placement in a different housing unit or transfer to another facility were options confirmed by the Director's designee.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Director's Designee
- Warden
- Random Sample of Staff

Standard 115.63: Reporting to other confinement facilities

115.63 (a)

- Upon receiving an allegation that an inmate was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred? Yes No

115.63 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation? Yes No

115.63 (c)

- Does the agency document that it has provided such notification? Yes No

115.63 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.63 (a)

Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) requires,
Upon receiving an allegation that an offender was sexually abused while confined at a non-PSD facility, the receiving facility Head or Warden shall immediately notify the non-PSD facility Head or Warden of the PREA sexual abuse allegation. The Facility Head or Warden shall include the department PREA Coordinator in the formal notification to the non-PSD facility, via "Carbon Copy" for email notifications, or by emailing the fax transmittal to the head of the facility for fax notifications.

Upon receiving an allegation that an offender was sexually abused while confined at a PSD facility, the receiving facility Head or Warden shall immediately notify the PSD facility Head or Warden of the PREA sexual abuse allegation. The Facility Head or Warden shall include the department PREA Coordinator in the formal notification to the PSD facility, via "Carbon Copy" for email notifications, or by emailing the fax transmittal to the head of the facility for fax notifications.

The PAQ reports that no applicable allegations were received by OCCC in the past 12 months, which was confirmed by the Warden. As a result, there was no secondary documentation available for review to confirm such notifications are being made in compliance with policy. However, the Warden clearly articulated the requirements of this subsection during an interview. The allegation document packets provided indicate that intake staff received an allegation about the Honolulu Police Department, which was forwarded by the former PREA Coordinator. However, there is an administrative investigation open

and pending about this on the list of investigations provided by the facility, which appears to be an error. The Auditor recommended that this be reviewed and corrected if applicable.

A review of the allegations received indicates that a majority are made during intake and then reported per policy to the former PREA Coordinator, who supervises this unit within the agency, along with a copy to the PREA Program Specialist. The Auditor requested clarification regarding whether these situations are considered falling within cross-facility notification requirements detailed in policy, requiring notification within 72 hours from the Program Specialist to the Warden. As of the writing of this report (03/24/2019), clarifying information had not been received. However, it is noted that in all but one (1) of the 26 allegations received by intake staff, the Warden was notified of the allegation within 72 hours of receipt. It is recommended that the agency develop a policy-driven process to ensure adequate notification is provided to the Warden, allowing for applicable safety and supportive actions to be taken regarding alleged victims. UPDATE: Per the Program Specialist, allegations reported to Intake staff are not considered reports to another facility or jurisdiction as these individuals maintain work locations within OCCC, even if they report through a different chain of command. She added that Intake staff are required to notify their supervisor, but also provide notification to the facility's Watch Commander to ensure immediate response actions are initiated.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.63 (b)

Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)* requires, "The Facility Head or Warden shall provide such notifications as soon as possible, but no later than seventy-two (72) hours after receiving the allegation."

The PAQ reports that there were no applicable allegations received by OCCC in the past 12 months, which was confirmed by the Warden. As a result, there was no secondary documentation available for review to confirm such notifications are being made in compliance with policy. However, the Warden clearly articulated the requirements of this subsection during an interview. The allegation document packets provided indicate that intake staff received an allegation about the Honolulu Police Department, which was forwarded by the former PREA Coordinator. However, there is an administrative investigation open and pending about this on the list of investigations provided by the facility, which appears to be an error. The Auditor recommended that this be reviewed and corrected if applicable. The Auditor requested information regarding the method in which notification was provided to the Honolulu Police Department Chief as the allegation was received on 01/09/2018 and the letter provided as documentation dated 01/12/2018. If the letter was sent via standard US mail, the notification would not have been received within the required 72 hours. As of the writing of this report (03/24/2019), this information was not received. As a result, OCCC is assessed as non-compliant with this subsection.

A review of the allegations received indicates that a majority are made during intake and then reported per policy to the former PREA Coordinator, who supervises this unit within the agency, along with a copy to the PREA Program Specialist. The Auditor requested clarification regarding whether these situations are considered falling within cross-facility notification requirements detailed in policy, requiring notification within 72 hours from the Program Specialist to the Warden. As of the writing of this report (03/24/2019), clarifying information had not been received. However, it is noted that in all but one (1) of the 26 allegations received by intake staff, the Warden was notified of the allegation within 72 hours of receipt. It is recommended that the agency develop a policy-driven process to ensure adequate notification is provided to the Warden, allowing for applicable safety and supportive actions to be taken regarding alleged victims. UPDATE: Per the Program Specialist, allegations reported to Intake staff are not considered reports to another facility or jurisdiction as these individuals maintain work locations within OCCC, even if they report through a different chain of command. She added that Intake staff are required to notify their supervisor, but also provide notification to the facility's Watch Commander to ensure immediate response actions are initiated.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include either the provision of documentation / information confirming the provision of notification within the required 72 hours, or the development of a process to ensure all such cross-jurisdictional notifications are sent in a manner that ensures delivery within the required 72 hours.

UPDATE: Information was received from the Program Specialist that confirmed the allegation reported to the Honolulu Police Department was sent via fax and, therefore, was received within the 72-hour timeframe required. As a result of this confirming information, OCCC is now assessed as compliant with this subsection.

115.63 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) requires, "The Facility Head or Warden shall document that he/she has provided such notifications within seventy-two (72) hours of receiving the allegation." (section 34.0.4, page 35).

The PAQ reports that there were no applicable allegations received by OCCC in the past 12 months, which was confirmed by the Warden. As a result, there was no secondary documentation available for review to confirm such notifications are being made in compliance with policy. However, the Warden clearly articulated the requirements of this subsection during an interview. The allegation document packets provided indicate that intake staff received an allegation about the Honolulu Police Department, which was forwarded by the former PREA Coordinator. However, there is an administrative investigation open and pending about this on the list of investigations provided by the facility, which appears to be an error. The Auditor recommended that this be reviewed and corrected if applicable.

A review of the allegations received indicates that a majority are made during intake and then reported per policy to the former PREA Coordinator, who supervises this unit within the agency, along with a copy to the PREA Program Specialist. The Auditor requested clarification regarding whether these situations are considered falling within cross-facility notification requirements detailed in policy, requiring notification within 72 hours from the Intake Administrator to the Warden. As of the writing of this report (03/24/2019), clarifying information had not been received. However, it is noted that in all but one (1) of the 26 allegations received by intake staff, the Warden was notified of the allegation within 72 hours of receipt. This is documented in the form of an email. It is recommended that the agency develop a policy-driven process to ensure adequate notification is provided to the Warden, allowing for applicable safety and supportive actions to be taken regarding alleged victims. UPDATE: Per the Program Specialist, allegations reported to Intake staff are not considered reports to another facility or jurisdiction as these individuals maintain work locations within OCCC, even if they report through a different chain of command. She added that Intake staff are required to notify their supervisor, but also provide notification to the facility's Watch Commander to ensure immediate response actions are initiated.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.63 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) (section 34.0.5) requires that, "The Facility Head or Warden shall require and advise the non-PSD or PSD facility that the allegation must be investigated as required by PREA Standards."

The same agency policy also states, "A 'zero tolerance' policy means that sexual abuse and sexual harassment in any form is strictly prohibited and all allegations of such conduct will be investigated." (section 6.0) and "PSD ensures that an internal administrative investigation and an external referral for criminal investigation are completed for all allegations of sexual abuse and sexual harassment..." (section 17.0.1).

In an interview, the Director's designee reported that if the allegation is internal to the agency, the Wardens would contact each other and the PCM's would respond to the allegations. If it is with a contracted facility, they would contact the agency director and PREA Coordinator and request that a copy of the final report be sent to the Hawaii PREA Coordinator. Additionally, the Warden clearly articulated this requirement and assertion that any allegation received would be thorough investigated, regardless of the source of the allegation. Per the PAQ, during the 12 months preceding the on-site review, no allegations were received about OCCC from other facilities or jurisdictions. This is supported by the allegation / investigation report packets reviewed. However, in an interview with the Warden, he reported that they had received allegations from the Halawa Correctional Facility and the Women's Community Correctional Center. The Auditor requested clarification to ensure all allegations received during 2018 were adequately documented. However, as of the writing of this report (03/24/2019), this clarification had not yet been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include reconciliation of the allegation / investigation packets with the information provided by the Warden to ensure all applicable documentation is available for review and specific action plan steps developed if a gap is identified.

UPDATE: The Program Specialist reviewed allegation information with the Warden and confirmed that no allegations were received from other facilities and/or jurisdictions during the 12 months preceding the on-site review. She indicated that the Warden likely meant that they occasionally do get allegations from other facilities but confirmed that there were none applicable to this audit. As a result of the receipt of this information, OCCC is assessed as compliant with this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Documentation / investigation packets from the 36 allegations received in the 12 months preceding the on-site review

Interviews conducted:

- Director's Designee
- Warden

Standard 115.64: Staff first responder duties

115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?
 Yes No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? Yes No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? Yes No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? Yes No

115.64 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.64 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 35.0.1 (page 35 – 36) requires the following:

PSD's first responder policy for allegations of sexual abuse dictates that, upon learning of an allegation that an offender was sexually abused, the first staff member, who ideally would be a security staff member, to respond to the reported incident is required to: (a) Separate the alleged victim and abuser; (b) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence by county LE and IA; (c) If the abuse occurred within a time period (PSD Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, then request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and (d) If the abuse occurred within a time period (PSD

Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, then staff shall ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "Upon learning of an allegation that an offender was sexually abused, the first staff member to respond to the report is require to: Separate the alleged victim and abuser; Preserve and protect any crime scene; If the abuse occurred within 72 hours, request that the alleged victim not take any actions that could destroy physical evidence (washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating)." The training also provided detailed information for first responders:

Separate victim from alleged perpetrator, including transportation to medical/mental health exams.

Tell the chain of comment of the incident, including the health care unit.

Obtain a brief statement from the victim.

Provide medical and mental health treatment and support services.

Report incident by completing an incident report prior to the end of the shift.

Alter Internal Affairs and Law Enforcement.

Preserve forensic evidence, secure the crime scene, place offender suspect in "dry cell."

This direction for first responders is also included in the PREA Response Incident Checklist (PSD 8313) for Watch Commanders, which reads,

- *First Responders are to separate the inmate from the alleged perpetrator. If perpetrator is a staff member, eliminate contact between the inmate and the staff member. Notify the chain of command of the incident.*
- *Frist Responders to provide initial medical assessment and treatment. Notify the Health Care Unit to provide the victim with treatment and support services from both the Medical and Mental Health Team.*

The Auditor reviewed the OCCC response plan which indicates:

The following required actions are in response to sexual / physical abuse, harassment and misconduct allegations. Assure that this protocol is followed when dealing with these types of allegations...Inmate Victim and inmate suspect are not allowed to shower, change clothes or remove any clothing without medical supervision, use the restroom, brush teeth, or consume any liquids in order to preserve the evidence. [emphasis added]

Although agency policy requires that alleged victims be asked not to take any of the identified actions, the facility-level response plan require that staff not allow the victim to do so. This is contradictory to policy and not in compliance with standard requirements.

It is noted that this checklist was revised as of 03/14/2019 to correct language regarding asking versus not allowing the alleged victim to take any actions that might destroy evidence. The checklist provides the following instruction:

Request that the "Inmate Victim" not shower, change clothes or remove any clothing without medical supervision, use the restroom, brush teeth, or consume any liquids in order to preserve the evidence. "Inmate Suspect" is not allowed to take any of the above actions in order to preserve the evidence.

However, during interviews with first responders, six (6) of the thirteen (13) individuals interviewed indicated they would not allow the alleged victim to take any of these actions.

Interviews conducted with offenders who reported an allegation revealed that in most cases, the offender reported that staff response to their report was prompt and thorough.

Based on the above, OCCC is found to be non-compliant with this standard. Corrective action should include the revision to facility-level response checklists with distribution to all applicable facility staff. It is recommended that as a part of the deployment of the revised response form (both agency and facility-levels), educational information be provided to applicable staff (e.g., Watch Commanders) to ensure an understanding of the change and of related expectations.

UPDATE: The Auditor was provided with the updated form PSD 8313 PREA Incident Checklist as amended 03/14/2019. The form now reads, "Request that the 'Inmate Victim' not shower, change clothes or remove any clothing without medical supervision, use the restroom, brush teeth or consume any liquids in order to preserve the evidence. 'Inmate Suspect' is not allowed to take any of the above actions in order to preserve the evidence." This corrected information was also incorporated into the facility's PREA Coordinated Response Plan. The Auditor was forwarded an email from the Chief of Security to all OCCC Watch Commanders regarding revisions to the checklist and requesting they remove all previous checklists, replacing them with the updated one. As a result, OCCC is assessed as compliant with this subsection.

115.64 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 35.0.2 (page 36) states that, "PSD requires that if the first staff responder is not a security staff member, the staff responder will be required to separate the victim and abuser, if feasible, request that the alleged victim not take any actions that could destroy evidence, and then immediately notify security staff."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "Upon learning of an allegation that an offender was sexually abused, the first staff member to respond to the report is required to: Separate the alleged victim and abuser; Preserve and protect any crime scene; If the abuse occurred within 72 hours, request that the alleged victim not take any actions that could destroy physical evidence (washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating)." Interviews conducted with random staff and with security and non-security first responders confirmed a thorough knowledge of required actions, to include separation of the allegation victim and accused, provision of medical care as needed, and notification to supervisors.

During 2018, a total of 36 allegations were reported. In 33 of these, the first responder was not a custody / uniformed staff member. A majority of allegations (26 of 36) were initially reported to intake staff on entry to the facility. Three (3) of these 36 allegations were reported to custody / uniformed staff. The Auditor requested information regarding first responder responsibilities when the first responder is an intake staff member who reports allegations to the Intake Services Administrator and it is likely days before the information comes back to the Warden from the Program Specialist, specifically how are steps taken to ensure the separation of the alleged victim from the suspect and ensure appropriate medical and/or mental health services are provided to the alleged victim. The Auditor was informed that the facility receiving the allegation would immediately start the PREA response checklist, make needed referrals, and ensure the separation of the allegation victim and perpetrator should they be housed in the same area. The Auditor requested documentation of this immediate notification and documentation of facility response. However, as of the writing of this report (03/24/2019), such documentation had not been received and therefore, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the provision of applicable response documentation or the development of a process to ensure first responder responsibilities are completed, regardless of who received the allegation, following by documentation of the implementation of this process.

UPDATE – To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are responded to according to agency policy, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the response documentation

and investigation process. The Captain provided oversight, training, and review as needed. The Captain established a new process whereby the response checklist is included in the final investigation report. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. These reports included documentation of the staff response following the receipt of allegation information.

The Auditor was provided with a 09/17/2019 memorandum from the Warden to all Watch Commanders detailing the reporting and response process implemented during the corrective action period. This memorandum reads:

To ensure compliance with PSD PREA Policy ADM 08.08 and the DOJ PREA Standards, the following must now be adhered to in the following manner when incidents are reported through the facility intake process. Upon receipt of a PREA report from OISC, the following process with take effect:

- 1. OISC will forward an email of the allegation to the Watch Commander, Warden, COS [Chief of Security] and cc [the pcm, the PREA Coordinator, and Program Specialist]. OISC will assure that the inmate be responded to by Module 5 staff for further instructions from the Watch Commander.*
- 2. The Watch Commander will assure that notifications according to the Director's Priority I and II is adhered to, the PREA checklist is completed with referrals to medical and mental health for assessments and notifications to local law enforcement are made when warranted.*
- 3. Module 5 and the Watch Commander will assure that the assigned housing is appropriate following the allegation.*
- 4. The Watch Commander will then assure that all reports, statements, [Honolulu Police Department] report numbers and checklists are submitted to the [Chief of Security] for review and issuance for investigation.*

This process will be adhered to without deviation.

This new process addressed the Auditor's concerns that allegations received by intake staff were not be responded to or documented consistent with agency policy and PREA standards and in the same manner as allegations received by facility staff.

The Auditor was also provided with a packet documenting the response to a new allegation reported to allow the Auditor to review the packet of information that is now provided to the assigned investigator.

Based on the implementation of the revised process and the resulting documentation, OCCC is now assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Copies of the investigation report packets resulting from the allegations reported during this documentation period
- Oahu Community Correctional Center Coordinated Response Plan 10/08/2018
- Memorandum temporarily detaching a Captain to OCCC and resulting investigation reports
- Response packet following the receipt of a new allegation
- 09/12/2019 memorandum from the Warden to all Watch Commanders regarding reporting and response to PREA allegations received by intake staff

Interviews conducted:

- Security Staff and Non-Security Staff First Responders
- Offenders who Reported Sexual Abuse
- Random Sample of Staff

- Volunteer / Contractor Coordinator

Standard 115.65: Coordinated response

115.65 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.65

The agency maintains a PREA Response Plan that is made up of the following:

- PSD P&P COR.10.1B05: Procedure in the Event of Physical or Sexual Assault.
- PSD P&P COR.13.03: Serious Misconduct Violations and Minor Misconduct Violations.
- Standards of Conduct for Corrections & Law Enforcement.
- PSD's Directive on Fraternalization with Inmates and Reporting of Incarcerated Relatives.
- Criminal Investigation and Administrative Investigation.
- Inmate Classification and Programmatic Review.
- PSD P&P COR.08.13 Duty Assignment for Corrections Officers.
- Departmental PREA Policy – ADM.08.08. Handouts, Posters, and Videos.
- Complete PREA Checklist Form for any PREA allegation.
- PREA Screening Tool and OffenderTrak Alerts.
- Awareness Training for Staff and Offenders.

This is detailed in Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training (as revised 02/02/2017), training that was recently required of all staff members.

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 36.0.1 and .2 (page 36) required that, "Each PSD facility must develop a facility specific written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. Each facility's written institutional plan shall incorporate the PREA Incident Checklist (PSD 8313) and other PREA forms. If a facility has developed a Facility PREA Coordinated Response Incident Checklist, then it must incorporate at a minimum all variables included on the Department's PREA Response Incident Checklist (PSD 8313)." The same policy details the duties of first responders (section 35.0.1.c and .d; page 35) which include, "If the abuse occurred within a time period (PSD Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, then request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and If the abuse occurred within a time period (PSD Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, staff shall ensure that the alleged abuser not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating"

Per the Program Specialist, each facility is required to develop a facility-specific response plan. Each facility, including OCCC, mirrored the PSD checklist with the same steps and coordinated response. Additionally, each facility is required to develop a plan, but when an incident occurs, they are required to document their response on the agency-level checklist (PSD 8313 PREA Response Incident Checklist). The Program Specialist also reported that the OCCC response plan is maintained by the PCM and is available to all staff as it is not confidential. The plan provided by OCCC does not appear to be facility specific but does meet the standard requirement for the development of a coordinated response plan. Existence of the coordinated response plan was confirmed in an interview with the Warden.

During interviews conducted while on site, staff were knowledgeable about the facility's response plan and their duties as first responders.

Based on the above, OCCC is assessed as compliant with the requirements of this standard

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training (as revised 02/02/2017)
- Oahu Community Correctional Center Coordinated Response Plan 10/08/2018

Interviews conducted:

- Warden

Standard 115.66: Preservation of ability to protect inmates from contact with abusers

115.66 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? Yes No

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.66 (a)

Within the agency, all uniformed staff with the exception of captains and majors, food service staff and operations staff are covered under the AFSCME Local 646 AFL-CIO UPW United Public Workers Unit 10 collective bargaining agreement. All other non-uniform staff (including wardens), captains, and majors are covered under the AFSCME Local 152, AFL-CIO HGEA Hawaii Government Employees Association collective bargaining agreement. Both of these agreements expired 06/30/2017 and are currently in negotiations. The expired agreements remain in place until such time as new agreements are ratified and enacted. Per the Program Specialist, both agreements have been in place, unchanged for over 20 years and are currently in arbitration due to cost items only.

The Hawaii Government Employees Association collective bargaining agreement states in part:

Whenever an investigation of charges against an Employee is pending and the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place, the Employee may be placed on a leave of absence without pay pending investigation...whenever an investigation of charges against an Employee is pending, the Employer shall have the discretion to: a. retain the Employee in active duty status; b. place the Employee on leave of absence with pay; c. return the Employee to active duty status from leave without pay pending an investigation; or d. reassign the Employee to another work unit or area and in the same or different capacity. The action shall be for the length of time as may be necessary to conclude the investigation.

The United Public Workers Unit 10 collective bargaining agreement states in part:

*Whenever an investigation of charges against an Employee is pending, the Employer shall have the option to:
Retain the Employee at work,
Place the Employee on leave of absence with pay,
Return the Employee to work from leave without pay pending an investigation, or*

*Reassign the Employee to a temporary workplace in the same or different position.
The decision of the Employer shall be for the length of time necessary to conclude the investigation.*

These provisions were confirmed in an interview with the Director's designee who reported the ability to place staff on administrative leave, leave without pay, assign them to another area of the facility or to another facility, etc. These are all actions available to remove the accused staff member from the proximity of the alleged victim.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.66 (b)

The Auditor was provided with copies of applicable sections of the two bargaining agreements in place at OCCC and confirmed compliance with this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- AFSCME Local 152, AFL-CIO HGEA Hawaii Government Employees Association collective bargaining agreement 07/01/2013 – 06/30/2017
- AFSCME Local 646 AFL-CIO UPW United Public Workers Unit 10 collective bargaining agreement 07/01/2013 – 06/30/2017

Interviews conducted:

- Director's Designee

Standard 115.67: Agency protection against retaliation

115.67 (a)

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff? Yes No
- Has the agency designated which staff members or departments are charged with monitoring retaliation? Yes No

115.67 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations? Yes No

115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? Yes No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? Yes No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? Yes No

115.67 (d)

- In the case of inmates, does such monitoring also include periodic status checks? Yes No

115.67 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation?
 Yes No

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.67 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.1 (page 37) states that, "PSD's policy protects all offenders and staff who report sexual abuse or sexual harassment or cooperates with a sexual abuse or sexual harassment investigation, from retaliation by other offenders, staff, or others. The designated Facility PREA Compliance Manager in conjunction with the Warden or the Sheriff is charged with monitoring any issues related to retaliation."

At OCCC, the PCM is designated as the individual responsible for all retaliation monitoring related to PREA investigations. The current PCM is assigned to these responsibilities temporarily based on the extended absence of the permanent PCM, and, in discussions with him, he indicated he had not yet developed related systems or processes. He is fairly familiar with the requirements associated with this standard, but there is reportedly nothing currently in place to ensure required retaliation monitoring is completed.

Based on the above agency policy and designation of responsibilities, OCCC is assessed as compliant with the requirements of this subsection. Systems and actual monitoring requirements will be assessed in subsequent subsections.

115.67 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.2 (page 37) states that, "PSD utilizes multiple protection measures, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders or staff; when the individual fears or experiences retaliation for reporting sexual abuse or sexual harassment or for cooperating with a PREA investigation."

During on-site interviews conducted, the Director's designee and Warden reported actions would be monitored and any allegations of retaliation would be investigated. They both also reported that the parties would be separated in order to ensure the continued safety of the individual alleging retaliation. Also identified was housing changes as an option to address possible retaliation. Both the Director's designee and the Warden indicated that they can also detach staff to another facility during an investigation if needed in order to protect the reporter during the investigation. As a result of a lack of system and actual monitoring activities established by the PCM at the time of the on-site review and the temporary status of the PCM, the interview questions for staff responsible for monitoring activities were not formally asked. However, the PCM is familiar with the requirements associated with this subsection and understands the avenues available to address possible retaliation.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.67 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.3 through .5 and .8 (page 37 - 38) requires that, "For a period of not less than ninety (90) days following a report of sexual abuse, the Facility PREA Compliance Manager in conjunction with the Warden and other staff shall monitor the conduct and treatment of offenders or staff, who reported the sexual abuse. During this minimum ninety (90) day period following a report of sexual abuse, the Facility PREA Compliance Manager in conjunction with the Warden and other staff shall monitor offenders, who were reported to have suffered sexual abuse, to see if there are any changes that may suggest possible retaliation by other offenders or staff. If it has been determined that the offender has suffered retaliation, then staff shall initiate proactive measures to promptly remedy any retaliation. The Facility PREA Compliance Manager and the Warden shall: (a) Act promptly to remedy any such retaliation and report their actions through the chain of command. (b) Monitor any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. (c) Continue such monitoring beyond ninety (90) days, if the initial monitoring indicates a continuing need...The facility or PSD staff shall document all incidents of retaliation and the minimum ninety (90) day monitoring requirement, described under this section on the PREA Mandated Reporting Form (PSD 8317). A copy of this form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

During interviews conducted, the Warden articulated a familiarity with actions that might indicate retaliation. He reported that regardless of the individuals involved, the issue would be investigated. The individual charged with retaliation monitoring is currently in the PCM position temporarily and is relatively new to the responsibility. It is recommended that the agency provide the individual with the opportunity to shadow an individual in another facility to ensure he thoroughly understands all aspects of the retaliation monitoring process.

The Auditor reviewed the allegation / investigation packets provided for all 36 allegations reported in 2018. It is noted that there is documentation of formal retaliation monitoring included in only two (2) of these packets. Each of the 36 allegations involved sexual abuse and, as such, should include formal monitoring as detailed in the standard. In one of the packets that included retaliation monitoring, it was noted that the offender will continue on 90-day monitoring, but no documentation of the actual monitoring was included. In the second packet, the documentation noted that the offender was being placed under a minimum of 90-day retaliation monitoring when the offender was informed of the outcome of the investigation. There was no documentation of monitoring prior to as required by policy or after as noted

in the Mandated Reporting form provided. The Auditor also requested clarification regarding how monitoring is documented (e.g., a separate Mandated Reporting form submitted each 30 days that monitoring occurs, one form issued at the end of monitoring documenting all monitoring-related activities, a separate tracking system maintained locally, etc.). It is noted that as of the writing of this report (03/24/2019), none of the above noted documentation had been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include provision of documentation of the required retaliation monitoring for all allegations or, if not available, the implementation of a system to ensure monitoring occurs with subsequent documentation provided to the Auditor during the corrective action period. The Auditor should be provided with all allegation information beginning with 01/01/2019 and continuing on through the corrective action period.

UPDATE - To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are investigated in a timely manner, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the process. The Captain provided oversight, training, and review. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. Included in the reports for 2019 investigations was documentation detailing all retaliation monitoring activities that took place. Based on the revised process and related documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.67 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.6.d (page 38) requires that, "In the case of offenders, monitoring by the Facility PREA Compliance Manager shall also include periodic status checks, preferable conducted weekly, at a minimum."

As noted in the narrative for subsection 115.67 (c), the Auditor was not provided with requested documentation regarding required retaliation monitoring. This includes documentation of periodic status checks with involved offenders.

The individual charged with retaliation monitoring is currently in the PCM position temporarily and is relatively new to the responsibility. It is recommended that the agency provide the individual with the opportunity to shadow an individual in another facility to ensure he thoroughly understands all aspects of the retaliation monitoring process.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include provision of documentation of the required retaliation monitoring for all allegations or, if not available, the implementation of a system to ensure monitoring occurs with subsequent documentation provided to the Auditor during the corrective action period.

UPDATE - To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are investigated in a timely manner, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the process. The Captain provided oversight, training, and review. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. Included in the reports for 2019 investigations was documentation detailing all retaliation monitoring activities that took place. Based on the revised process and related documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.67 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.7 (page 38) requires, "If any other individual, who cooperates with an investigation expresses a fear of retaliation, then PSD shall take appropriate measures to protect that individual against retaliation."

During the audit documentation period, there were no applicable issues raised or indicated related to the investigations conducted. However, the Director's designee and Warden were familiar with related policy provisions. Additionally, the Auditor was provided with the curriculum for the formal PREA-related training most recently required of all staff (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017*). Included in that training is information regarding the prohibition of all forms of retaliation, examples of overt and indirect retaliation, and the assertion that all offenders and staff have the right to be free from retaliation. Incorporated into the training is the inclusion of retaliation-related actions in the agency's zero tolerance policy ("PSD has a zero-tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents...Any retaliation against individuals for reporting an incident is also prohibited and will be investigated.") The Warden also noted that the information is posted in all the living units and reiterated with staff and offenders. He added that if information is received, it is investigated, and perpetrators held accountable. The Director's designee also confirmed that the facility will review and assess any allegations related to retaliation and take needed actions to protect the involved offender (e.g., move the offender to another housing unit or facility).

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.67 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.9 (page 38) states that, "The obligation of the Facility PREA Compliance Manager, Warden, and/or Sheriff to monitor shall terminate, if the investigation concludes that the allegation is unfounded."

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Allegation / investigation packets related to the 36 allegations reported during 2018
- Memorandum temporarily detaching a Captain to OCCC and resulting investigation reports

Interviews conducted:

- Director's Designee
- Warden
- Designated Staff Member charged with Monitoring Retaliation

Standard 115.68: Post-allegation protective custody

115.68 (a)

- Is any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of § 115.43? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.68

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.1 through .8 states the following:

PSD discourages the placement of offenders in involuntary administrative segregated housing solely because of their high risk of sexual victimization status, unless an assessment of all available alternatives has been made and it is concluded that there is no available alternative for separating the victim from a likely abuser. This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. If the PSD facility is unable to conduct the above assessment immediately, the facility may hold the offender in involuntary administrative segregated housing for a period of less than twenty-four (24) hours pending the completion of the mandated assessment. Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible, as dictated by the facility's schedule and operational needs. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317). This shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. The documentation shall include: (a) The programs, privileges, education, or work opportunities that have been limited; (b) The duration of the limitation; and (c) The reasons for such limitations. If a PSD facility assigns an offender at risk of sexual victimization to involuntary administrative segregated housing as an alternative means of separation from the likely abuser, then such an assignment should not normally exceed a period of thirty (30) days. If an involuntary administrative segregated housing assignment is made pursuant to paragraph (1) of this section, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days: (a) The basis for the facility's concern for the offender's safety; and (b) The reason why no alternative means of separation can be arranged. If the placement in involuntary administrative segregated housing exceeds the initial thirty (30) days, the facility shall conduct follow-up reviews as dictated by COR.11.01: Administrative Segregation and Disciplinary Segregation, but no less than every thirty (30) days to assess the offender's continued separation from the general population. This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

During 2018, there were no instances in which an offender alleging sexual abuse was placed in

segregated housing based on the report made. It is noted that offenders who are currently housed in segregated housing may make PREA-related allegations and remain in such housing based on prior behavior, not on the allegation made. It is also noted that an offender may be placed in segregated housing in close proximity to reporting an allegation, but the placement would be for unrelated behaviors (e.g., a fight) and would be clearly documented.

During an interview, the Warden reported that placement of an alleged victim in segregated housing would only occur when the facility had no other options, even after exploring placement in another agency facility or the Federal Detention Center. He noted that if this were to occur, the placement would be for as short a period as possible and that they would involve medical and mental health in the situation. He estimated that within 48 hours, they would be able to have more permanent housing arranged. He confirmed that there have been no such placements in the 12 months preceding the on-site review.

Interviews with staff who supervise offenders in segregated housing confirmed that if a reporting offender required placement for protection, the offender would be housed in a separate portion of the holding unit and would have the same privileges as they had before placement in this unit. The staff member who had worked in the unit for some time indicated that an offender would be housed in this area for as short a timeframe as possible, that they would try to get the offender out to another facility. He could not recall ever holding an offender in segregated housing who reported or because of risk of victimization.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documents provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Warden
- Staff who Supervise Offenders in Segregated Housing

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

115.71 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] Yes No NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] Yes No NA

115.71 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34? Yes No

115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? Yes No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?
 Yes No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? Yes No

115.71 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution? Yes No

115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? Yes No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? Yes No

115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? Yes No

- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? Yes No

115.71 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible? Yes No

115.71 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution? Yes No

115.71 (i)

- Does the agency retain all written reports referenced in 115.71(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years? Yes No

115.71 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation? Yes No

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.71 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.1 (page 38) requires, "When PSD conducts an administrative investigation into an allegation of sexual abuse and/or sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports."

The Auditor was also provided with a directive from the Director of the Department of Public Safety (dated 07/01/2015) which lines out the prioritization of incident reporting and notifications throughout the Department. This directive indicates that, "Any Prison Rape Elimination Act (PREA) reported incident of Sexual Abuse or criminal incident of Sexual Harassment (usually involves a threat)" is considered a Priority I incident, requiring immediate telephone notification "...through the Facility, Law Enforcement, and Department (Division Administrator, Deputy Director, and Director) chain of command and the Public Information Officer (PIO) as soon as possible. Following the chain of command notification, the Director shall direct IAO [internal Affairs Office] and/or the AG [Attorney General] Investigator as needed. The details/reports are to be emailed to the individuals in the chain of command by the end of the shift." This directive highlights the level of importance placed by the agency on PREA-related investigations.

Investigators interviewed reported that PREA-related investigations would begin immediately after a report was received. These individuals also indicated that this would occur regardless of the method in which the allegation information was received, to include anonymous and third party reports.

The Auditor was provided with information that if an offender releases prior to the completion of an investigation, the investigation is placed on hold until the offender returns and re-reports the allegation. This was not confirmed in discussion with the Program Specialist, however, was confirmed in interviews with applicable staff and in documentation provided regarding allegations received. The Program Specialist noted that investigations appeared to have been delayed due to changes in staffing (PCM and COS). She added that each PCM maintains a log of investigations, which was not available when the current PCM assumed responsibilities. On 03/08/2019, the Auditor calculated how long investigations had been open based on the initial date of report. Time frames ranged from 94 days to 1,290 days for one allegation that had initially been reported 09/05/2015 and re-reported 2/02/2017 and again on 08/31/2018, but no documentation of movement on the investigation was received. As of 03/08/2019, the average number of days an administrative investigation had been open was just over 265 days. As a result, OCCC is assessed as non-compliant with the requirement to complete investigations in a timely manner. Also, given the number of open / pending investigations from 2018, the Auditor was concerned that there are additional investigations from 2016 (when the last PREA audit was conducted) and 2017. The Auditor requested the tracking sheet maintained by the Program Specialist for the allegations reported in 2016 and 2017, but as of the writing of this report (03/24/2019), this documentation had not been received. UPDATE: The requested information was received, and it was determined that five allegations reported in 2017 still had investigations pending. These will be included in the investigation reports provided to the Auditor during the corrective action period.

A review of the five (5) investigation reports received indicates that only two (2) could be considered thorough investigations. Two (2) investigations consisted of a statement that the offender was released before being interviewed, that there were no facts or evidence to support the inmate's claims of sexual assault, and therefore the investigations were closed as unfounded. There is no documentation to indicate that any other actions were taken, to include review of records, attempts to identify witnesses, applicability of video recordings, attempts to contact the offender in the community, etc. The Auditor also did not understand how a finding of "unfounded" rather than "unsubstantiated" could be reached. In another investigation, the investigation was initiated 09/28/2018 but the report indicates that the alleged victim was not interviewed as she released 01/22/2019, 116 days later. The offender reported having been raped by her cellmate six (6) months earlier but there doesn't appear to be any action taken regarding the investigation until the offender released, and then the investigation was closed with a statement regarding the offender's release and nothing more. Based on the depth and timeliness of investigations, it appears that the investigative actions taken are also not demonstrably objective.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a prompt completion of all currently open administrative investigations, refresher training for current investigators, and a system of continued oversight implemented to ensure

this type of situation doesn't occur again in the future. Based on the status of investigations, the Auditor should also be provided with all allegations and resulting investigations beginning 01/01/2019 and continuing through the corrective action period. This requirement should be included in corrective action developed for each subsection of this standard.

UPDATE – To address the identified issues regarding investigations, the Warden implemented a new process for the assignment and tracking of all allegations and resulting investigations which reads in part:

- *The Watch Commander will then assure that all reports, statements, HPD report numbers and checklists are submitted to the [Chief of Security] for review and issuance for investigation.*
- *Investigations are logged in a database within a 45-day processing (inmate-on-inmate_ from the date of allegation to finding in accordance with the adjustment process. Staff investigations may take longer due to CBA, Garrity warnings/clauses, etc.*
- *Upon completion of investigations, [the PCM] will be given a copy to notify inmate and initiate a sexual abuse review where warranted. This process would also include the inmates 90-day monitoring and follow up with local law enforcement for updates on criminal investigations.*

To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are investigated in a timely manner, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the process. The Captain provided oversight, training, review, and investigation assistance as needed. The Auditor was also provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. Finally, three (3) additional staff were trained as investigators and the PREA Coordinator provided refresher training regarding investigations to all individuals who were designated as facility investigators.

The Captain also instituted the use of the *PREA Audit – Adult Prisons and Jails Documentation Review – Investigations* checklist published by DOJ to review each investigation report to ensure all required elements are included. The checklist also includes a summary of the investigation in the “Additional Comments / Notes” section of the checklist. This not only streamlined the Auditor review process, it ensures that all standard elements are addressed and summarized before the investigation is forwarded for final findings. Any deficiencies can be addressed before the investigation report moves into final stages. It is strongly recommended that this process continue with all investigations conducted in the future.

Based on the implementation of the revised process, the number of investigations completed, the oversight and training provided to applicable staff, the establishment of definitive timeframes, and the documentation associated with all elements, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 41.0.3 requires that, “If sexual abuse is alleged, a PSD IA investigator, who has received specialized training in sexual abuse investigations pursuant to §21.0 of this policy will conduct the administrative investigation, unless the Director has authorized the Facility to conduct the administrative investigation. The Facility Investigator must have received the specialized training in sexual abuse investigations pursuant to §21.0.”

The policy specifically addresses the training requirement for those who conduct sexual abuse investigations and is silent regarding those who conduct sexual harassment investigations as this is not a requirement of the standard. Per the Program Specialist, any staff member who conducts investigations can conduct sexual harassment investigations. However, it is a practice that only those individuals who have completed PREA investigations training conduct both abuse and harassment investigations.

The Auditor was provided with documentation of the completion of the National Institute of Corrections training in PREA investigations for randomly selected individuals designated as investigators. It is noted

that this training does not appear on the individual's official training transcript as it is a web-based training that is not organized by the agency's training unit. However, proof of completion is maintained in the staff member's training record file. Interviews with a sample of designated investigators confirmed completion of required training through the National Institute of Corrections (NIC). Interviewees noted training included crime scene handling, protection of the victim, interviewing techniques, and trauma-informed investigation processes.

However, a review of the completed investigation packets received indicate that the investigators named in the packet had not always completed training prior to participation in an investigation. In one case, the investigator initially assigned had not completed the required training. In October 2018, when the investigator retired, the investigation was transferred to another individual, but this individual did not complete investigator training until November 2018. In two additional investigations, a co-investigator named in the report completed in March 2018 did not complete investigator training until September 2018.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a system whereby the individual who assigns investigatory responsibility first ensures completion of required training. Additionally, the facility should ensure that all currently open / pending investigations are completed by a trained investigator.

UPDATE: The Auditor was provided with a listing of currently trained investigators which includes the PCM and two (2) lieutenants.

115.71 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.4 (page 39) requires that, "PSD Investigators shall: (a) Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. (b) Interview alleged victims, suspected perpetrators, and witnesses, unless a delay of an interview of a victim is requested by county LE. (c) Review prior complaints and reports of sexual abuse involving the suspected perpetrator."

Interviews with a sampling of designated investigators confirmed inclusion of standard required elements in investigatory processes.

A review of the allegation / investigation packets provided revealed minimal documentation of the collection and/or control of evidence related to the investigation. The PAQ noted that there were no allegations reported during 2018 in which evidence could have been collected; however, the Auditor located at least five (5) allegations in which the collection of some evidence appeared possible but wasn't documented in the packet provided. At least two of these involved possible forensic medical examinations. The Auditor requested information regarding evidence collection and documentation, but as of the writing of this report (03/24/2019), no related documentation had been received.

Regarding the standard requirement to review prior complaints, the Program Specialist reported that the PCM has a confidential control log of all incidents that occurred at their facility. The investigator and/or Warden review all allegations contained on the control log when making investigatory findings. She added that a review of prior complaints was recently implemented and discussed with PCM's at their annual meeting in October and a new template for offender-on-offender investigations was also distributed during that meeting. The Auditor was provided with the new template and confirmed the inclusion of documentation of prior allegation review as required by the standard in offender-on-offender investigations. OCCC has not had an offender-on-offender allegation reported since the implementation of this new template and therefore, has no secondary documentation available to demonstrate use. However, the Auditor also reviewed the template for staff-on-offender investigations as provided by the

Program Specialist and found no similar language or requirement in the template. The template does require the investigator to document a review of personnel files, requiring:

In the event that an employee is under investigation for a misconduct, Investigator should review the employee's personnel file and documented relevant information. The information contained in this section should show the time, date, and day the personnel file was reviewed; if any letters of appreciation, certificates, commendations, and/or awards were received, and any prior record of disciplinary action received that complies with CBA requirements.

While this type of review may provide valuable information regarding an employee's prior behavior, it does not meet the standard requirement of a review of all prior allegations as the information gleaned from this review would only constitute substantiated allegations and would not include a history of all complaints made regarding the individual, to include unsubstantiated or unfounded allegations.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include modification of the report template in use for staff-on-offender allegations and applicable dissemination / training for potential users, training in and documentation of evidence from allegations reported, and completion of the currently pending administrative investigations.

UPDATE: Revisions were made to the investigation report template which requires the inclusion of the following information:

Verify with PREA Coordinator or PREA Facility Compliance Manager as to whether the alleged inmate victim has a prior history of sexual abuse or sexual harassment reporting as a victim or predator.

Verify with PREA Coordinator or PREA Facility Compliance Manager as to whether the alleged staff member has a prior history of sexual or sexual harassment reporting as a predator.

Based on the above, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.5 (page 39) requires that, "When the quality of evidence appears to support criminal prosecution, PSD shall conduct compelled interviews of staff by affording the staff member Garrity Warnings. PSD Investigators should consult with county LE or prosecutors as to whether a compelled interview may be an obstacle for subsequent criminal prosecution."

It was confirmed in interviews with investigative staff that criminal investigation take priority over administrative investigations with administrative investigations generally placed on hold until the criminal investigation and related proceedings were complete.

During 2018, there appear to have been at least eight (8) allegations received that were reported to law enforcement officials. However, there was no documentation provided of the outcome of those referrals or of the delay of the conducting of any compelled interview until after decisions were made by law enforcement and/or prosecutors regarding those referrals. The Auditor requested documentation of the outcome of noted referrals, but as of the writing of this report (03/24/2019) no related documentation had been received.

Additionally, policy language itself does not meet compliance with the standard as it only affords staff protections under Garrity, instructing investigators that they "should" consult with law enforcement as to whether a compelled interview may be an obstacle. The conducting of an interview following the provision of Garrity information to the staff member in and of itself implies a compelled interview as the staff member has no choice but to participate in the investigation or face possible discipline. The Auditor was informed that investigators from the Internal Affairs Unit would conduct investigations that are potentially criminal and, as these individuals are sworn officers, the requirements of this standard are addressed. However, documentation provided indicated that facility investigators, rather than investigators from Internal Affairs were assigned all administrative investigations, including those in which the allegation

was referred to law enforcement, which is contrary to the information provided. Finally, the provision in policy only addresses investigations in which a staff member is accused but does not address compelled interviews when an offender is accused.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include connection with law enforcement to address outstanding criminal investigation referrals, a system implemented for tracking with retraining of identified investigators regarding follow up with criminal referrals, and a revision to policy with provision of applicable information to all trained investigators.

UPDATE: The following clarifying information was received from the former PREA Coordinator:

The Department of Public Safety (PSD) has developed a process with each County Prosecuting Attorney's Office through the relevant County Law Enforcement responsible for the criminal investigation to allow PSD to proceed with its administrative investigation, unless the County entity has specifically requested a deference to the criminal investigation. The language in ADM.08.08 allow for this process to continue and the "should" language was intended to maintain this process.

In practice, our County Law Enforcement has benefited from the information gained through the administrative investigation through subpoenas. It is important to note that all staff investigative forms comply with Garrity notice and rights; however it is the Law Enforcement entity, who is responsible to ensure Garrity after the administrative documents are produced pursuant to a subpoena.

In short, the working relationship between PSD and the County has proven to be beneficial to securing convictions against staff, who commit sexual abuse as the administrative process is more efficient (quicker) than the criminal process, which is subject to delays in scheduling or by defense counsel to achieve a "speedy trial" dismissal.

Based on the above, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.6 and .7 (page 39) requires that, "The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined merely by the person's status as an offender or staff member. PSD staff does not require an offender, who alleges sexual abuse, to submit to a polygraph examination, computer voice stress analysis (CVSA) or other truth-telling device as a condition for proceeding with the investigation. PSD staff may offer a victim or non-staff witness the option to participate in this type of technological process (polygraph, CVSA, or other truth-telling device)."

During another agency audit, the Auditor was provided with a 2015 substantiated staff investigation for standard 115.76 to document disciplinary procedures. This investigation contained the results of Computer Voice Stress Analysis (CVSA) Reports for two offenders named as alleged victims in the investigation. Per the Program Specialist, a CVSA was not required, nor were the offenders forced to submit to one. In this instance, the offenders were asked to submit, and they freely volunteered to take a CVSA. This is an investigatory option in order to attain clarity in the investigation and come to the best conclusion. Although this practice is compliant with the requirements of this subsection, it is recommended that the agency develop some form of documentation that the offender's participation in a CVSA is truly voluntary and wholly of their own volition. This documentation should also include the reasoning behind requesting the offender's participation and/or a request for a CVSA initiated by an offender.

During interviews conducted with investigative staff, it was confirmed that investigators assess the

credibility of all investigation participants (alleged victims, suspects, and witnesses) based on the totality of information obtained, including but not limited to corroborating witness testimony with available evidence, video, testimony of other witnesses, the history of the witness, the logic of the information provided, and timeframes and sequences of events. It was also confirmed that polygraph or other truth telling devices would not be required of an offender participating in an investigation. Interviews with offenders who reported also confirmed that such examinations were not required of them.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.71 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 41.0.8 (page 39) requires that, "Administrative investigations shall include: (a) An effort to determine whether staff actions or failures to act contributed to the abuse, and (b) Written reports shall include a description of the physical and testimonial evidence the reasoning behind credibility assessments, and investigative findings of facts."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training provided all participants with the definition of investigation outcomes as follows: "Substantiated Allegation – an allegation that was investigated and determined to have occurred. Unsubstantiated allegation – an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as whether or not the event occurred. Unfounded Allegation – an allegation that was investigated and determined not to have occurred."

The Auditor was provided with allegation / investigation packets from the 36 allegations reported during 2018. There was one substantiated investigation (only 5 investigations have been completed with regard to the 36 allegations reported). This investigation did not include an allegation that rose to the level of criminal behavior according to Hawaii law.

Investigative staff reported that all information available is examined to determine if any staff member contributed to the abuse, to see if there was any act of deliberate indifference or code of conduct violations, and to see if the abuse could have been avoided. If such actions were suspected, a separate investigation would be initiated. This did not occur during the audit documentation period.

As noted with the narrative for subsection 115.71 (c), minimal documentation regarding evidence collection and management was included in the packets provided. Corrective action identified for that subsection also applies to this subsection.

During a review of all investigation templates and completed investigation reports provided, the Auditor was not able to locate how an investigator and/or final finder of fact detailed the reasoning behind credibility assessments. The Auditor requested clarification but as of the writing of this report, had not received any applicable information. As a result, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include the development of a process to document credibility assessment information relied on in an investigation coupled with applicable dissemination of information to investigators. Per the narrative for subsection 115.71 (c), corrective action should also include training in and documentation of evidence relative to allegations reported.

UPDATE: The Auditor was provided with a revised investigation report template, which included the following language:

Include in analysis when assessing the totality of circumstances and credibility to formulate findings/conclusions.

Based on the above, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.2 and .11 (page 38 – 40) requires that, “The county LE agency for each island is delegated with conducting all criminal sex abuse and criminal sexual harassment investigations. The County LE agency is charged with the responsibility to make the required referrals for criminal prosecution, if warranted...The procedures for criminal investigations conducted by county LE shall be dictated by their policies. In practice, the county’s LE procedures do require a written report that contains a thorough description of the physical, testimonial, and documentary evidence. The county LE shall refer substantiated allegations of conduct based on their investigative process that appears to be criminal for prosecution.”

Investigative staff interviewed reported that the Internal Affairs Unit (IAU) are able to obtain criminal reports from law enforcement as applicable. During 2018, there appear to have been at least eight (8) allegations received that were reported to law enforcement officials. However, there was no documentation provided of the outcome of those referrals. The Auditor requested documentation of the outcome of noted referrals, but as of the writing of this report (03/24/2019) no related documentation had been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include connection with law enforcement to address outstanding criminal investigation referrals, a system implemented for tracking with retraining of identified investigators regarding follow up with criminal referrals, and a revision to policy with provision of applicable information to all trained investigators.

The processes implemented and related documentation related to facility investigations is detailed with subsection 115.71. As a result, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (h)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.2 and .11 (page 38 – 40) requires that, “The county LE agency for each island is delegated with conducting all criminal sex abuse and criminal sexual harassment investigations. The County LE agency is charged with the responsibility to make the required referrals for criminal prosecution, if warranted...The procedures for criminal investigations conducted by county LE shall be dictated by their policies. In practice, the county’s LE procedures do require a written report that contains a thorough description of the physical, testimonial, and documentary evidence. The county LE shall refer substantiated allegations of conduct based on their investigative process that appears to be criminal for prosecution.”

Interviews with a sample of designated investigators confirmed referral of any potentially criminal allegation to local law enforcement officials, who would then make applicable referrals to county prosecutors.

The Auditor was provided with the allegation and/or investigation packets from the 36 allegations reported in 2018. Due to the number of open investigations (31 of 36 or 86%), the Auditor also requested a copy of the tracking of investigations since the last DOJ PREA audit on-site review in August 2016. As of the writing of this report (03/24/2019), this documentation has not been received.

Additionally, during 2018, there appear to have been at least eight (8) allegations received that were reported to law enforcement officials. However, there was no documentation provided of the outcome of those referrals. The Auditor requested documentation of the outcome of noted referrals, but as of the writing of this report (03/24/2019) no related documentation had been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include connection with law enforcement to address outstanding criminal

investigation referrals, a system implemented for tracking with retraining of identified investigators regarding follow up with criminal referrals, and a revision to policy with provision of applicable information to all trained investigators.

The processes implemented and related documentation related to facility investigations is detailed with subsection 115.71. As a result, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (i)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.9 (page 40) requires that, "PSD shall retain all written reports referenced in paragraph (8b) of this section [written administrative investigation reports] for as long as the alleged abuser is incarcerated or employed by PSD, plus an additional five (5) years."

All reports are maintained within data systems managed by the PREA Coordinator. All completed investigation reports requested for review were readily available upon request. Additionally, the PREA Coordinator was very knowledgeable regarding the requirements of this standard. However, the HQ PREA office does not have access to complete allegation packet information even though the packets should contain documents (e.g., mandated reporting forms) that are required to be submitted to HQ.

However, it was learned that one of the issues causing the significant backlog of investigations is due to the permanently assigned PCM who maintained allegation and pending investigatory files in locations no one else knows about or can locate. Although PREA investigation and allegation information is certainly confidential and restricted, there should be some form of backup system in place in order to ensure continuity of investigations in work and sustainability of the entire investigatory process.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) efforts to recreate any missing investigatory files and completion of the related investigations, and (2) the creation of some system in which investigatory informational files can be confidentially maintained while providing some form of backup in the event the individual responsible is no longer available at the facility.

The processes implemented and related documentation related to facility investigations is detailed with subsection 115.71. As a result, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (j)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.10 (page 40) requires that, "The departure of the alleged abuser or victim from the employment or custody of the facility or PSD shall not provide a basis for terminating an investigation. The investigator shall complete the investigation by formulating a conclusion that the allegation is substantiated, unsubstantiated, or unfounded."

During interviews conducted, the Auditor was informed by facility staff that regarding offender-on-offender investigations, if the suspect or alleged victim leave the facility, the investigation is held open until if/when the offender returns. This was witnessed with documentation associated with allegation packets for pending investigation. Documentation appears to indicate that one allegation was reported 09/05/2015, re-reported 02/02/2017 and 08/31/2018, yet the investigation remains open due to the release and re-admission of the offender. Two closed investigation reports noted that the offender released before being interviewed and since there were no facts or evidence to support the offender's claims, so the investigations were closed as unfounded. There is no evidence that the investigator attempted to locate any other witnesses, review video, or find any other supporting or refuting evidence. Both scenarios, though on opposite ends of the spectrum, are non-compliant with standard requirements and intent, causing concern for the safety of those offenders who are close to release. It appears that these

offenders may be most at risk if their allegations are either not investigated or investigated on such a superficial level.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) efforts to recreate any missing investigatory files and completion of the related investigations, (2) refresher training for designated investigators, and (3) the creation of a system of oversight to ensure the completion of thorough investigations regardless of the status of participants in the investigation.

The processes implemented and related documentation related to facility investigations is detailed with subsection 115.71. As a result, OCCC is now assessed as compliant with the requirements of this subsection.

115.71 (k)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.12 (page 40) requires that, "Any County, State, or Department of Justice agencies conducting such investigations shall do so pursuant to the above requirements."

This was confirmed in interviews with investigative staff. The former PREA Coordinator also reported that at one time, an attempt was made to establish a Memorandum of understanding with local law enforcement. This process was never completed as these officials reported that it was their statutory obligation to conduct all criminal investigations for police powers on the relevant islands. Facility administrators and the Internal Affairs Unit Chief are in continual discussions with law enforcement officials regarding PREA standard-related requirements to ensure all criminal investigations are compliant with these standards.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.71 (l)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.13 (page 40) requires that, "When an external agency is charged with investigating an incident of sexual abuse, the facility shall cooperate with the outside investigators and shall endeavor to remain informed about the progress of the outside agency investigation."

The Warden reported that the facility is generally reliant on law enforcement to provide information back to them regarding criminal investigation process, however, he confirmed the ability to reach out if he wanted status information. During interviews with investigative staff, the former PREA Coordinator and the PCM, the Auditor was informed that facility and agency level investigators are provided with a law enforcement case number for any criminal investigation being conducted. The authorized individual can then contact the law enforcement agency to obtain updates and status information regarding the investigation. Designated staff are also able to conduct regular status checks with the criminal investigator as needed to remain abreast of the investigation. Facility staff also indicated that they would assist with logistics, documentation, coordinating interviews with law enforcement, etc. to assist criminal investigators as needed and directed.

During 2018, there appear to have been at least eight (8) allegations received that were reported to law enforcement officials. However, there was no documentation provided of the outcome of those referrals or of facility actions taken to ensure they remain informed of the progress of that investigation. The Auditor requested documentation of the outcome of noted referrals and documentation of facility actions taken, but as of the writing of this report (03/24/2019) no related documentation had been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include connection with law enforcement to address outstanding criminal

investigation referrals, a system implemented for tracking and staying current on the progress of all criminal investigations and retraining of identified investigators regarding follow up with criminal referrals, and a revision to policy with provision of applicable information to all trained investigators.

Following a review of all subsections of the investigation-related standards, the Auditor is recommending a complete overhaul of the investigation processes in place at OCCC, that all backlogged investigations be brought current and a system of oversight implemented to ensure this type of situation does not occur again in the future.

The processes implemented and related documentation related to facility investigations is detailed with subsection 115.71. As a result, OCCC is now assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Director Memorandum Incident Reporting and Notification (07/01/2015)
- Template for staff investigations dated 10/13/20146 (date is as included on the template)
- Template for offender investigations dated 05/01/2018
- Allegations and/or investigation packets from the 36 allegations reported in 2018
- Memorandum detailing the revised investigation process implemented at OCCC
- Memorandum temporarily detaching a Captain to OCCC and resulting investigation reports

Interviews conducted:

- Investigative Staff
- Offenders who Reported Sexual Abuse
- Warden

Standard 115.72: Evidentiary standard for administrative investigations

115.72 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated?
 Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.72

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 42.0.1 (page 40) requires that, "PSD shall not impose an evidentiary standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated."

The Auditor was provided with copies of the five (5) investigations that have been completed on allegations reported in 2018. Of these, one investigation was closed as substantiated. This investigation was reviewed and appeared to have findings consistent with the preponderance of the evidence standard. It is noted that the investigation report did not follow the standardized template provided by policy and therefore did not include a summary sheet that details justification of the findings based on the totality of the investigation completed. However, the investigation report itself clearly articulated the evidence relied on for the findings made.

Investigative staff interviewed as part of this audit were knowledgeable of the level of proof required for PREA investigations.

Based on the above, OCCC is assessed a compliant with the requirements of this standard.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Copies of the investigation report packets resulting from the five investigations completed on allegations received in 2018

Interviews conducted:

- Investigative Staff

Standard 115.73: Reporting to inmates

115.73 (a)

- Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? Yes No

115.73 (b)

- If the agency did not conduct the investigation into an inmate's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.) Yes No NA

115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the inmate's unit? Yes No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility? Yes No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? Yes No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility? Yes No

115.73 (d)

- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility? Yes No
- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility? Yes No

115.73 (e)

- Does the agency document all such notifications or attempted notifications? Yes No

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.73 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.1 requires that, "Upon completion of an investigation (administrative or criminal) into an offender's allegation that he/she suffered abuse in a PSD facility, facility staff shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded."

During an interview, the Warden confirmed that notifications are provided to all applicable offenders upon closing of an investigation. Investigators interviewed confirmed that this is completed by the PCM. Two of the three reporting offenders interviewed indicated that notification was provided to them. The third indicated that he did not know.

The Auditor was provided with the five investigations completed for allegations received in 2018. In one of these, the offender was notified of the outcome of the investigation. In the remaining investigations, it was noted on the mandated reporting form included that the offender had released. This would be a usual occurrence as the facility is a jail and offenders move in and out of the facility on a continuous basis. However, in two of these investigations, the required PREA mandated reporting form documenting the attempt to notify the offender was completed on 01/10/2019, nearly 10 months after the investigations were completed. It appears that the forms were completed significantly after the fact to meet policy requirements. Although in both cases, the offender released prior to the Warden's approval of the investigation, the significant delay in completing all steps required for an investigation is non-compliant with policy requirements to notify an offender upon completion of the investigation, which implies a much timelier notification or documentation if the facility is unable to notify the applicable offender.

As a result of the above, OCCC is assessed as noncompliant with the requirements of this subsection. Corrective action should consist of the development of a system to ensure all required steps of an investigation, to include victim notification of findings, are completed in a timely manner. The Auditor should also be provided with notification relative to the open / pending investigations that should be completed during the corrective action period. Based on the status of investigations, the Auditor should also be provided with all allegations and resulting investigations and associated notifications beginning 01/01/2019 and continuing through the corrective action period. This requirement should be included in corrective action developed for each subsection of this standard.

UPDATE - To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are investigated in a timely manner, the agency Director temporarily

detached a Captain from another facility to OCCC to assist in the process. The Captain provided oversight, training, and review. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. Included in the reports for these investigations was documentation detailing all notification provided to offenders as required by this standard. Based on the revised process and related documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.73 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.2 (page 40) requires that, "If the facility or PSD did not conduct the investigation, the facility, or PSD shall request the relevant information from the external investigative agency in order to inform the offender of the results."

Of the five investigations completed and provided for Auditor review, only one was referred to law enforcement for a criminal investigation. Although requested by the Auditor, no documentation regarding the outcome of that criminal referral and subsequent notification to the offender was received.

Another completed investigation along with documentation from an open / pending investigation noted that the offender refused to press charges or have the referral made. The Auditor requested clarification regarding the facility's response and ability or requirement to make the referral regardless of the offender's refusal. As of the writing of this report (03/24/2019), no responsive information has been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include a reorganization of the facility's investigation processes, ensuring the facility remains informed regarding criminal investigation referrals in order to provide applicable notification to offenders.

UPDATE - To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are investigated in a timely manner, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the process. The Captain provided oversight, training, and review. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. Included in the reports for these investigations was documentation detailing all notification provided to offenders as required by this standard. Based on the revised process and related documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.73 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.3 (pages 40 – 41) requires that, "Following an offender's allegation that a staff member has committed sexual abuse against an offender, the facility or PSD shall subsequently inform the offender (unless PSD had determined that the allegation is unfounded) whenever: (a) The staff member is no longer posted within the offender's unit; (b) The staff member is no longer employed at the facility; (c) The facility or PSD learns that the staff member has been indicted on a charge relate to sexual abuse within the facility; or (d) The facility or PSD learns that the staff member has been convicted on a charge related to sexual abuse within the facility."

The Auditor was provided with the report packets from the five investigations conducted regarding allegations reported in 2018. Only one of these investigations is applicable to this subsection. In that investigation, the offender was notified of the employment status of the accused staff member. This offender is no longer housed at the facility and therefore, was not available for interview. Other reporting offenders interviewed during the on-site review did not fall within the specifications of this standard.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.73 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 43.0.4 (page 41) requires that, "Following an offender's allegation that he/she has been sexually abused by another offender in a PSD facility, the facility or PSD shall subsequently inform the alleged victim whenever: (a) The facility or PSD learns that the alleged abuser has been indicted on a charge related to sexual abuse with the facility; or (b) The facility or PSD learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility."

The Auditor was provided with report packets for the five investigations conducted regarding allegations reported in 2018. No applicable investigations were completed that involved the post-investigation notification required by this subsection; as a result, no applicable offenders were identified for interview. However, given the number of open and pending investigations (31 of 36), this could change during the corrective action period. These will be monitored during the corrective action period to ensure any applicable notifications are made.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.73 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 43.0.5 (page 41) requires that, "The facility or PSD shall document all notifications to offenders described under this section on the PRA Mandated Reporting Form (PSD 8317). A copy of this form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

The Auditor was provided with report packets for the five investigations completed regarding allegations reported in 2018. All five contained the required PREA Mandated Reporting form, documenting the facility's attempts to notify the alleged offender victim. In four of these, the offender had release prior to the completion of the investigation and therefore was not notified of the investigation outcome. The timeliness of the documentation is noted in the narrative associated with subsection (a).

As this subsection does not establish timelines for the completion of this documentation, OCCC is assessed as compliant with the requirements of this subsection.

115.73 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 43.0.6 (page 41) states that, "The facility's or PSD's obligation to report under this section shall terminate, if the offender victim is released from PSD's custody."

The Auditor was provided with report packets for the five investigations completed regarding allegations reported in 2018. All five contained the required PREA Mandated Reporting form, documenting the facility's attempts to notify the alleged offender victim. In four of these, the offender had release prior to the completion of the investigation and therefore was not notified of the investigation outcome.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- PREA Mandated Reporting Form (PSD 8317) notifying a Maui Community Correctional Center offender of the outcome of an investigation (dated 08/02/2017).
- PREA Mandated Reporting Form (PSD 8317) notifying a Women's Community Correctional Center offender of the outcome of an investigation (dated 02/09/2017)
- Investigation report packets for the five investigations conducted regarding allegations reported in 2018

- Memorandum temporarily detaching a Captain to OCCC and resulting investigation reports

Interviews conducted:

- Investigative Staff
- Warden
- Offenders who Reported Sexual Abuse

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

115.76 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies? Yes No

115.76 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse? Yes No

115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories? Yes No

115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)? Yes No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.76 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.1 (page 41) states that, "Staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "Staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations"

During the documentation period, there was one substantiated investigation of staff sexual abuse of an offender. The Auditor was provided with the investigation and documentation regarding discipline commensurate with the allegation following the conclusion of this investigation.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.76 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.2 (page 41) states that, "Termination shall be the presumptive disciplinary sanction for all staff, who, after an investigation and pre-disciplinary due process hearing, have been found to have engaged in sexual abuse."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "Termination will be the presumptive disciplinary action."

During the audit documentation period, there was one substantiated allegations of sexual abuse on the part of staff. Actions taken are in compliance with standard requirements. It is noted however, that as of the writing of this report, there are still 11 open / pending staff-related investigations from allegations reported in 2018. As a result of the completion of these investigations, this may change during the corrective action period. If such were to occur, the final audit report would be updated to reflect this information.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection

115.76 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.3 (page 41) states that, "Disciplinary sanctions for violations of PSD policies relating to sexual abuse and sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's personnel and disciplinary history, and the sanctions imposed for comparable offenders by other staff with similar employment histories."

During the documentation period, there was one substantiated investigation of sexual abuse perpetrated by a staff member as noted in previous subsections. There were no other substantiated staff-related investigations during 2018 and as such, there was no additional proof documentation available for review. It is noted however, that as of the writing of this report, there are still 11 open / pending staff-related investigations from allegations reported in 2018. As a result of the completion of these investigations, this may change during the corrective action period. If such were to occur, the final audit report would be updated to reflect this information.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.76 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.4 and.5 (page 42) states that, "All terminations for violations of PREA sexual abuse or sexual harassment policies, or resignations by staff, who would have been terminated, if not for their resignation, shall be reported to LE agencies, unless the activity was clearly not criminal. PSD shall also report the incident to any relevant licensing body applicable to the staff member, such as but not limited to social work, educational, physician or nursing licensing bodies."

During the audit documentation period, there were no substantiated allegations of sexual abuse on the part of staff that rose to the level of violations of Hawaii law. As a result, there is no applicable documentation available for review. It is noted however, that as of the writing of this report, there are still 11 open / pending staff-related investigations from allegations reported in 2018. As a result of the

completion of these investigations, this may change during the corrective action period. If such were to occur, the final audit report would be updated to reflect this information.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for review:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Documentation of disciplinary actions regarding the substantiated OCCC staff sexual abuse investigation
- Documentation of staff disciplinary records for other locations within the agency
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017

Interviews conducted:

- No formal interviews were indicated by DOJ template or Auditor Compliance Tool

Standard 115.77: Corrective action for contractors and volunteers

115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates? Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)? Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? Yes No

115.77 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.77 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 45.0.1 and .2 (page 42) states, "PSD requires that any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and shall be reported to county LE, unless the activity was clearly not criminal. PSA shall also report the incident to any relevant licensing body applicable to the contractor or volunteer."

There were no investigations conducted regarding allegations reported in 2018 in which a contractor or volunteer were accused of sexual misconduct. Additionally, there appear to be no pending or open investigations naming this classification of individuals as suspects. As a result, there is no secondary documentation available for review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.77 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 45.0.3 (page 42) requires that, "PSD shall take appropriate remedial measures and consider whether to prohibit further contact with offenders *in the case of other violations* not covered by the paragraph (1) of this section, such as sexual harassment by a contractor or volunteer."

There were no investigations conducted regarding allegations reported in 2018 in which a contractor or volunteer were accused of sexual misconduct. Additionally, there appear to be no pending or open investigations naming this classification of individuals as suspects. As a result, there is no secondary documentation available for review. However, during an interview the Warden clearly articulated

remedial actions available to him if there had been, indicating that he could deny facility access and pursue criminal charges where possible. The Warden expressed his expectation that anyone who comes into the facility is expected to follow agency rules.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Warden

Standard 115.78: Disciplinary sanctions for inmates

115.78 (a)

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process? Yes No

115.78 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories? Yes No

115.78 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior? Yes No

115.78 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits? Yes No

115.78 (e)

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact? Yes No

115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? Yes No

115.78 (g)

- Does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.78 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.1 (page 42) states that, "Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or sexual harassment." During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. Based on the lack of available applicable documentation, the Audit Team interviewed the Offender Disciplinary Hearing Officer. This individual was very well trained in disciplinary procedures and understood the requirements of related PREA standards.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.78 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.2 (page 42) requires that, "Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders." During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. Based on the lack of available applicable documentation, the Audit Team interviewed the Offender Disciplinary Hearing Officer. This individual was very well trained in disciplinary procedures and understood the requirements of related PREA standards. The Warden also articulated the offender disciplinary process, sanctioning matrix, and the factors considered during the offender disciplinary hearing process.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.78 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.3 (page 42) states that, "The disciplinary process shall consider whether an offender's mental disability or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed." During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. Based on the lack of available applicable documentation, the Audit Team interviewed the Offender Disciplinary Hearing Officer. This individual was very well trained in disciplinary procedures and understood the requirements of related PREA standards. The Warden also articulated the offender disciplinary process, sanctioning matrix, and the factors considered during the offender disciplinary hearing process.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.78 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.4 and .5 (page 42) requires that, "PSD medical and mental health staff shall provide therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for abuse. The medical,

mental health, and facility staff shall consider whether to require the offending offender to participate in such interventions as a condition of access to programming, privileges or other benefits.” During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. As OCCC is a jail facility, offenders are not provided with the sex offender treatment programming that would be found in agency prison facilities. As a result, the facility does not require applicable offenders to participate in such interventions as a condition of access to programming or other benefits. This was confirmed in interviews with medical and mental health staff and the facility’s disciplinary hearing officer.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.78 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.6 (page 42 – 43) requires that, “PSD shall discipline offenders for sexual contact with staff only upon finding that the staff member did not consent to such contact. This type of incident shall result in a reassessment of the offender by utilizing the PREA Screening Tool (PSD 8314).” As no applicable instances occurred at OCCC, the Auditor was provided with documentation from the Halawa Correctional Facility to demonstrate compliance with this standard. The documentation provided detailed action taken when an offender was accused of sexually assaulting a staff member who did not consent to the contact.

The prohibition of disciplining an offender for reporting an allegation in good faith was confirmed in an interview with the facility’s disciplinary hearing officer.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.78 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.7 (page 43) states that, “PSD shall not discipline an offender for reporting sexual abuse made in good faith and based upon a reasonable belief that the alleged conduct occurred. This is applicable, if an investigation does not establish evidence sufficient to substantiate the allegation.”

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, “PSD prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the allegation conduct occurred.”

Based on the above, OCCC is compliant with all requirements of this subsection.

115.78 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.8 (page 43) indicates that, “PSD prohibits all sexual activity or sexual contact between offenders and shall discipline offenders for such activity or contact. PSD shall not deem such activity to constitute sexual abuse, if it determines that the activity is consensual or not coerced.”

Based on the above, OCCC is compliant with all requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- 2015 disciplinary packet from the Halawa Correctional Facility
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017

Interviews conducted:

- Offender Disciplinary Hearing Officer
- Warden
- Medical and Mental Health Staff

MEDICAL AND MENTAL CARE

Standard 115.81: Medical and mental health screenings; history of sexual abuse

115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? Yes No

115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.) Yes No NA

115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? Yes No

115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law? Yes No

115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.81 (a) and (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.1 (page 43) requires that, "Any offender who has disclosed a prior sexual victimization during an intake screening pursuant to §24.0 of this policy, whether it occurred in an institutional setting or in the community, shall be offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening."

At OCCC, identified mental health staff pull a PREA Health Care Report once per week. This report identifies any offenders who had risk assessments completed the previous week (parameters set when the report is pulled) and identifies any offender scored "yes" on the following assessment questions:

- Victim of prison rape / sexual abuse within 10 years – corrections
- Victim of sexual abuse within 10 years – non-correctional setting
- Predatory history of prison rape / sexual abuse / assault – corrections
- Predatory history of sexual abuse / assault – non-correctional setting

Mental health providers then schedule identified offenders for follow up meetings. Once the offender has been seen, the provider enters the information in their master log.

The Auditor was provided with the Mental Health log from 01/01/2018 through 01/16/2019, detailing out the following:

- A total of 381 offender were referred to mental health providers
- Of the 381 offenders, 6 (1.5%) were seen beyond the 14-day requirement
- Of the 381 offenders, 8 (2%) were not seen as required
- Leaving a total of 367 (96%) seen within the 14-day requirement or refusing the follow up meeting

Additionally, the Auditor was provided with the Health Care Report covering the time period of 01/01/2018 – 12/28/2018, which noted 42 offenders who reported prior sexual abuse. The Auditor requested documentation of follow up meetings with mental health for 12 offenders. Documentation was provided for 11 of 12 identified offenders. Information received indicated that one offender was not seen as required. The Program Specialist noted that the assignment sheets are shredded once logged, therefore, there are no sheets left for 2018 and the Program Specialist was unable to track back to identify why the offender was not seen. It is recommended that these sheets be retained for a period of time before shredding to be able to research any identified issues such as this.

The above process was confirmed in interviews with staff who complete risk assessments. The offenders who reported prior abuse during an assessment did not indicate being seen by a provider, but one reported that she had not disclosed the prior abuse and didn't understand why she was being interviewed. The documentation provided supports process compliance with standard requirements.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.81 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.2 (page 43) requires that, "Any offender who has disclosed any previous perpetration of sexual abuse during an intake screening pursuant to §24.0 of this policy shall be offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake screening."

At OCCC, identified mental health staff pull a PREA Health Care Report once per week. This report identifies any offenders who had risk assessments completed the previous week (parameters set when the report is pulled) and identifies any offender scored "yes" on the following assessment questions:

- Victim of prison rape / sexual abuse within 10 years – corrections
- Victim of sexual abuse within 10 years – non-correctional setting
- Predatory history of prison rape / sexual abuse / assault – corrections

- Predatory history of sexual abuse / assault – non-correctional setting

Mental health providers then schedule identified offenders for follow up meetings. Once the offender has been seen, the provider enters the information in their master log.

The Auditor was provided with the Mental Health log from 01/01/2018 through 01/16/2019, detailing out the following:

- A total of 381 offender were referred to mental health providers
- Of the 381 offenders, 6 (1.5%) were seen beyond the 14-day requirement
- Of the 381 offenders, 8 (2%) were not seen as required
- Leaving a total of 367 (96%) seen within the 14-day requirement or refusing the follow up meeting

Additionally, the Auditor was provided with the Health Care Report covering the time period of 01/01/2018 – 12/28/2018, which noted 66 offenders who were assessed points for prior perpetration. The Auditor requested documentation of follow up meetings with mental health for 12 offenders. Documentation was provided for 11 of 12 identified offenders. The remaining offender had been released within three (3) days and therefore was not seen by a provider for a follow up meeting.

The above process was confirmed in interviews with staff who complete risk assessments.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.81 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.3 (page 43) requires that, “Any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to formulate treatment plans and/or security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by federal, State, or local law.” Per discussion with the Program Specialist and medical and mental health staff, there have been no instances applicable to this subsection in the 12 months preceding the on-site review.

The Auditor was provided with a screen shot from the OffenderTrak system illustrating the risk identifier that is available to staff for use in housing, programming, and job assignments. It is noted that the assessment detail behind the identifier is only accessible by designated, trained staff responsible for completing these assessments.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.81 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.4 (page 43) requires that, “Medical and mental health staff shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of eighteen (18). This provision is not applicable to non-medical or non-mental health staff.”

Per discussion with the Program Specialist and medical and mental health staff, there have been no instances applicable to this subsection in the 12 months preceding the on-site review. However, interviews with medical and mental health providers confirmed an understanding of standard and policy requirements regarding consent to release information.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PREA Admissions Log (including released) 09/01/2017 through 08/31/2018
- Blank Authorization to Release Medical Information form (DOC0404A)
- Health Care Report – OCCC 01/10/2018 through 12/28/2018
- Health Care Report – OCCC 12/17/2018 – 12/21/2018
- OCCC Mental Health PREA Log 2018
- OffenderTrak screen shot of an offender's confinement record

Interviews conducted:

- Offenders who Disclosed Sexual Victimization at Risk Screening
- Staff Responsible for Risk Screening
- Medical and Mental Health Staff

Standard 115.82: Access to emergency medical and mental health services

115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment? Yes No

115.82 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62? Yes No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? Yes No

115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? Yes No

115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.82 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.5 (page 43) states that, "Offender victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which will be determined by medical and mental health staff according to their professional judgement."

Interviews with medical and mental health providers as well as first responders illustrated that all were very knowledgeable regarding the provision of trauma care and crisis intervention to offenders. All indicated that Health Services response would be immediate, as soon as the unit was notified. Providers also confirmed that the nature and scope of care is provided according to their professional judgement, noting the ability to access resources in the form of physicians or the Sex Abuse Treatment Center for

consultation as needed. Offenders who reported allegations confirmed in interviews the provision of care by medical and/or mental health providers.

According to the PAQ, there were no allegations at OCCC that indicated a forensic medical examination. However, during January 2019, an offender reported an allegation of rape and was transported to the emergency room via ambulance. The Auditor was provided documentation confirming the examination and the provision of advocacy support.

During a review of the allegation / investigation packets provided, the Auditor located four (4) additional instances in which either (1) the documentation provided indicated the offender had been transported to the community health care facility for what appeared to be a forensic medical examination, or (2) the documentation detailed in incident in which the allegation may have indicated the need for a forensic medical examination. The Auditor requested additional clarification regarding what factors determine if an offender receives such as examination and documentation of additional examinations provided. As of the date of the writing of this report (03/24/2019), this information had not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a review of all applicable allegation packets and provision of the requested information to the Auditor; and (2) the implementation of a record keeping system to ensure all applicable documentation is accessible to more than one individual within the facility (e.g., backup systems in the event the one identified individual is not available). Based on the status of investigations, the Auditor should also be provided with all allegations and resulting response documentation beginning 01/01/2019 and continuing through the corrective action period. This requirement should be included in corrective action developed for each subsection of this standard.

UPDATE: The Auditor was provided with medical records from applicable offenders who reported allegations of sexual assault and were assessed by health services providers. The offenders were transported for forensic medical examinations and documentation included information regarding emergency care prior to and following return from the examination. Documentation also detailed follow up care provision by both medical and mental health providers. Based on this information, OCCC is now assessed as compliant with the requirements of this subsection.

115.82 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.6 and .7 (page 43) required that, "If qualified medical or mental health are not on duty at the time of a report of recent sexual abuse, the security staff or first responder shall take preliminary steps to protect the victim as dictated by §32.0 and §35.0. If qualified medical and mental health staff are not on duty at the time of the report of a recent sexual abuse, they shall be immediately notified either by telephone contact to the on-call physician or when reporting for duty."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training informed all participants, "Offender victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services (determined by medical and mental health practitioners). If no qualified medical or mental health practitioners are on duty, security staff first responders will take preliminary steps to protect the victim and will immediately notify the appropriate medical and mental health practitioners."

Interviews with first responders confirmed a thorough knowledge of the responsibilities associated with receiving an allegation report. All indicated they would get the alleged victim to medical for services and evaluation as quickly as possible.

It is noted that OCCC maintains a 24-hour health services operation to include an infirmary. As a result, there should never be a time in which medical and/or mental health staff are not on duty and, therefore, available for response. As a result, OCCC is assessed as compliant with the requirements of this subsection.

115.82 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.8 (page 44) requires that, "Offender victims of sexual abuse, while incarcerated shall be offered timely information about and provided timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with the professionally accepted community standards of care, where medically appropriate."

Interviews with medical providers confirmed that applicable offenders are provided with access to emergency contraception and sexually transmitted infection prophylaxis. Most indicated that this would occur while the offender was at the Sex Abuse Treatment Center (SATC) and follow up care would be provided at OCCC based on directives from SATC providers. Two of the three reporting offenders interviewed confirmed provision of applicable information and treatment. The third offender indicated that he did not recall.

According to the PAQ, there were no allegations at OCCC that indicated a forensic medical examination in the 12 months. However, during January 2019, an offender reported an allegation of rape and was transported to the emergency room via ambulance. The Auditor was provided documentation confirming the examination and the provision of advocacy support.

During a review of the allegation / investigation packets provided, the Auditor located four (4) additional instances in which either (1) the documentation provided indicated the offender had been transported to the community health care facility for what appeared to be a forensic medical examination, or (2) the documentation detailed in incident in which the allegation may have indicated the need for a forensic medical examination. The Auditor requested additional clarification regarding what factors determine if an offender receives such as examination and documentation of additional examinations provided. As of the date of the writing of this report (03/24/2019), this information had not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a review of all applicable allegation packets and provision of the requested information to the Auditor; and (2) the implementation of a record keeping system to ensure all applicable documentation is accessible to more than one individual within the facility (e.g., backup systems in the event the one identified individual is not available).

UPDATE: The Auditor was provided with medical records from applicable offenders who reported allegations of sexual assault and were assessed by health services providers. The offenders were transported for forensic medical examinations and documentation included information regarding emergency care prior to and following return from the examination. In some cases, documentation included the provision of treatment for possible sexually transmitted prophylaxis. In other instances, related information was provided by SATC personnel and would not be recorded in the offender's facility medical record. This was confirmed in interviews with SAFE/SANE staff at the SATC. Based on this information, OCCC is now assessed as compliant with the requirements of this subsection.

115.82 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.9 (page 44) requires that, "Treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident." This information was repeated in training provided to all staff members (*Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017*).

Confirmation of the provision of services without cost to the offender was confirmed in interviews with Health Services staff and offenders who reported allegations.

Based on the above, OCCC is compliant with all requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017
- Allegation / investigation packets for the 36 allegations reported in 2018

Interviews conducted:

- Medical and Mental Health Staff
- Offenders who Reported Sexual Abuse
- Security and Non-Security Staff First Responders

Standard 115.83: Ongoing medical and mental health care for sexual abuse victims and abusers

115.83 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?
 Yes No

115.83 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? Yes No

115.83 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? Yes No

115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.) Yes No NA

115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.) Yes No NA

115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? Yes No

115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?
 Yes No

115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.83 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.1 (page 44) requires that, "PSD shall offer medical and mental health evaluations and, as appropriate, treatment to all offenders (including external referrals), who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility."

The Auditor was provided with allegation / investigation packets for the 36 allegations reported during 2018. The Auditor then requested missing documentation relative to response checklists that would include documentation of the medical and mental health referrals made. As of the writing of this report (03/24/2019), this documentation has not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a review of all applicable allegation packets and provision of the requested information to the Auditor; and (2) the implementation of a record keeping system to ensure all applicable documentation is accessible to more than one individual within the facility (e.g., backup systems in the event the one identified individual is not available).

UPDATE – To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are responded to according to agency policy, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the response documentation and investigation process. The Captain provided oversight, training, and review as needed. The Captain established a new process whereby the response checklist is included in the final investigation report. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. These reports included documentation of the staff response following the receipt of allegation information.

The Auditor was provided with a 09/17/2019 memorandum from the Warden to all Watch Commanders detailing the reporting and response process implemented during the corrective action period. This memorandum reads:

To ensure compliance with PSD PREA Policy ADM 08.08 and the DOJ PREA Standards, the following must now be adhered to in the following manner when incidents are reported through the facility intake process. Upon receipt of a PREA report from OISC, the following process with take effect:

- 5. OISC will forward an email of the allegation to the Watch Commander, Warden, COS [Chief of Security] and cc [the pcm, the PREA Coordinator, and Program Specialist]. OISC will assure that the inmate be responded to by Module 5 staff for further instructions from the Watch Commander.*
- 6. The Watch Commander will assure that notifications according to the Director's Priority I and II is adhered to, the PREA checklist is completed with referrals to medical and mental health for assessments and notifications to local law enforcement are made when warranted.*
- 7. Module 5 and the Watch Commander will assure that the assigned housing is appropriate following the allegation.*

8. *The Watch Commander will then assure that all reports, statements, [Honolulu Police Department] report numbers and checklists are submitted to the [Chief of Security] for review and issuance for investigation.*

This process will be adhered to without deviation.

This new process addressed the Auditor's concerns that allegations received by intake staff were not be responded to or documented consistent with agency policy and PREA standards and in the same manner as allegations received by facility staff. This also ensures these offenders are provided with the medical and mental health services dictated by policy and standard.

The Auditor was also provided with a packet documenting the response to a new allegation reported to allow the Auditor to review the packet of information that is now provided to the assigned investigator.

Based on the implementation of the revised process and the resulting documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.83 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 48.0.2 (page 44) requires that, "The evaluation and treatment of such victims includes, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody."

In interviews with medical and mental health staff, it was learned that offenders are provided with care as indicated by circumstance and need. Staff indicated that offenders are scheduled for providers for treatment as needed. Additionally, health services staff are on the units daily for sick call, so offenders can also request to be seen at that time. Staff noted that if offenders raise issues during sick call, they are brought to health services for private evaluation. Staff also confirmed that treatment and evaluation included recording of vitals, review of circumstances that brought the offender to health services as an indicator of treatment, and referral to social workers and/or mental health providers as needed.

Interviews with offenders who reported confirmed the provision of care as applicable to this subsection.

The Auditor was provided with allegation / investigation packets for the 36 allegations reported during 2018. The Auditor then requested missing documentation relative to response checklists that would include documentation of the medical and mental health referrals made. From this information, the Auditor would then be able to determine which offenders were applicable for requests of additional medical and/or mental health follow-up documentation. As of the writing of this report (03/24/2019), this documentation has not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a review of all applicable allegation packets and provision of the requested information to the Auditor; and (2) the implementation of a record keeping system to ensure all applicable documentation is accessible to more than one individual within the facility (e.g., backup systems in the event the one identified individual is not available).

UPDATE – To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are responded to according to agency policy, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the response documentation and investigation process. The Captain provided oversight, training, and review as needed. The Captain established a new process whereby the response checklist is included in the final investigation report. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. These reports included documentation of the staff response following the receipt of allegation information.

The Auditor was also provided with a packet documenting the response to a new allegation reported to allow the Auditor to review the packet of information that is now provided to the assigned investigator.

Based on the implementation of the revised process and the resulting documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.83 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.3 (page 44) requires that, "PSD shall provide offender victims of sexual abuse with medical and mental health services consistent with the community standard level of care."

Interviews with medical and mental health providers indicated the provision of services to offenders that is consistent with the community level of care. Several noted that the care provided is often more immediate than that available in the community.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.83 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.4 (page 44) requires that, "Offender victims of sexually abusive vaginal penetration, while incarcerated shall be offered pregnancy tests."

A review of the 36 allegation / incident reports provided regarding allegations reported during 2018 did not reveal an incident that would indicate the need for pregnancy testing or care. As such, no applicable offenders were identified for interview. However, interviews with medical providers confirmed that such would be provided if indicated by circumstance and need.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.83 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.5 (page 44) requires that, "If pregnancy results from the sexual abuse while incarcerated, offender victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services."

A review of the 36 allegation / incident reports provided regarding allegations reported during 2018 did not reveal an incident that would indicate the need for pregnancy testing or care. As such, no applicable offenders were identified for interview. However, interviews with medical providers confirmed that such would be provided if indicated by circumstance and need.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.83 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.6 (page 44) requires that, "Offender victims of sexual abuse, while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate."

Interviews with offenders who reported indicated the provision of care applicable to this subsection.

The Auditor was provided with allegation / investigation packets for the 36 allegations reported during 2018. The Auditor then requested missing documentation relative to response checklists that would include documentation of the medical and mental health referrals made. From this information, the Auditor would then be able to determine which offenders were applicable for requests of additional

medical and/or mental health follow-up documentation. As of the writing of this report (03/24/2019), this documentation has not been received.

Based on the above, OCCC is assessed as non-compliant with the requirements of this subsection. Corrective action should include (1) a review of all applicable allegation packets and provision of the requested information to the Auditor; and (2) the implementation of a record keeping system to ensure all applicable documentation is accessible to more than one individual within the facility (e.g., backup systems in the event the one identified individual is not available).

UPDATE – To address the issue regarding the backlog of investigations at the time of the on-site review and ensure current allegations are responded to according to agency policy, the agency Director temporarily detached a Captain from another facility to OCCC to assist in the response documentation and investigation process. The Captain provided oversight, training, and review as needed. The Captain established a new process whereby the response checklist is included in the final investigation report. The Auditor was provided with complete reports from twenty-five (25) investigations conducted, a combination of both 2018 catchup and 2019 new allegations receipts. These reports included documentation of the staff response following the receipt of allegation information.

The Auditor was also provided with a packet documenting the response to a new allegation reported to allow the Auditor to review the packet of information that is now provided to the assigned investigator.

Based on the implementation of the revised process and the resulting documentation, OCCC is now assessed as compliant with the requirements of this subsection.

115.83 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.7 (page 44) requires that, "Treatment services shall be provided to the offender victim without financial cost and regardless of whether the offender victim names the accused or cooperates with any investigation arising out of the incident." This information was repeated in training provided to all staff members (*Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017*).

Interviews with medical and mental health staff confirmed knowledge of the requirement of the provision of care at no charge to the offenders. Additionally, interviews with offenders who reported allegations confirmed that they were not charged for the medical and/or mental health care provided.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.83 (h)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.8 (page 44) states that, "Mental health staff shall attempt to conduct a mental health evaluation of all known offender-on-offender abusers within sixty (60) days of learning of such abuse history and offer treatment, when deemed appropriate."

A review of all investigations conducted at OCCC conducted relative to allegations reported in 2018 indicates that there have been no substantiated investigations of offender-on-offender sexual assault or abuse. Additionally, per the Program Specialist, there has been no receipt of information indicating substantiated abuse or assault in another confinement facility. However, an interview with a mental health practitioner indicated an understanding of the requirement of this subsection.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

- Training curriculum for Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017
- Allegation / investigation packets regarding the 36 allegations reported in 2018
- Memorandum temporarily detaching a Captain to OCCC and resulting investigation reports
- Response packet following the receipt of a new allegation
- 09/12/2019 memorandum from the Warden to all Watch Commanders regarding reporting and response to PREA allegations received by intake staff

Interviews conducted:

- Medical and Mental Health Staff
- Offenders who Reported Sexual Abuse

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? Yes No

115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? Yes No

115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? Yes No

115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? Yes No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? Yes No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? Yes No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? Yes No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? Yes No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? Yes No

115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.86 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.1 (page 45) requires that, "The Warden in conjunction with the Facility PREA Compliance Manager shall schedule a Sexual Abuse Incident Review (SAR) at the conclusion of every sexual abuse investigation that renders a finding that the allegation was substantiated or unsubstantiated, unless the allegation has been determined to be unfounded."

During 2018, three investigations were completed in which a Sexual Abuse Incident Review was indicated per standard. The Auditor was provided documentation for all three of these reviews.

The review process was detailed to staff in the training Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017. "PSD facilities will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded: Incident Reporting; Impact Assessment; Incident Escalation and Resolution; Incident Monitoring; Post Incident Review."

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.86 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.2 (page 45) specifies that, "SAR shall ordinarily occur within thirty (30) days of [when] the Warden has been informed of the conclusion of the investigation and its findings, excluding allegations determined to be unfounded."

During 2018, three investigations were completed in which a Sexual Abuse Incident Review was indicated per standard. The Auditor was provided documentation for all three of these reviews. All three were completed within days of the conclusion of the investigation.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.86 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.3 (page 45) requires that, "SAR Team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health staff. One individual should be identified as the Recorder or Reporting Staff Member."

During 2018, three investigations were completed in which a Sexual Abuse Incident Review was indicated per standard. The Auditor was provided documentation for all three of these reviews. Although the forms do not document the formal participation of medical or mental health personnel, in an interview, the Warden confirmed that these individuals would be included on a case by case basis. Additionally, he indicated that information is obtained informally as needed before and during the incident review process.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.86 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.4 and 5 (page 45) requires that,

The SAR Team shall document the following information on the Sexual Abuse Incident Review Report form (PSD 8319): (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (c) Examine the area in the facility, where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (d) Assess the adequacy of staffing levels in that area during different shifts; (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff...The Recorder or Reporting Team Member shall prepare a report by utilizing the Sexual Abuse Incident Review Report (PSD 8319) to document the SAR Team's findings, including, but not limited to a determination made pursuant to paragraphs (4a-4e) of this section, and any recommendation for improvement.

All Sexual Abuse Incident Reviews are conducted using a standardized form. The form documents the following information:

- Assess compliance with PREA standards (list positives/negatives)
- Does policy or practice need to be changed? Explain.
- Incident motivated by race, ethnicity, LGBTI status (perceived), security threat group affiliation or other inmate group dynamics? Explain.
- Did staffing levels impact PREA incident? Explain.
- Assess whether video technology is needed to augment staffing. Explain.
- Summary of recommendations, comments or concerns.

Additionally, the form provides the Warden the option to implement full recommendations, providing documentation, implement recommendations in part, or disagree with the recommendations. Explanatory information is required for the final two options.

During 2018, three investigations were completed in which a Sexual Abuse Incident Review was indicated per standard. The Auditor was provided documentation for all three of these reviews. All documentation detailed the standard-required elements. Additionally, interviews conducted with the Warden, the PCM and other staff who regularly participate in the incident review process confirmed a sound knowledge of the required elements and how they can impact the sexual as well as overall safety of the facility.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.86 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.6 and .7 (page 45 - 46) specifies that, "The SAR Team's report shall be forwarded to the Warden to review and complete the Warden's Response Section. The Warden shall make a decision as to whether the recommendations of the SAR Team will be implemented or document the reasons for not implementing the recommendations of the SAR. The Warden shall then retain a copy of the completed Sexual Abuse Incident Review Report to the Institutions Division Administrator (IDA), the Facility PREA Compliance Manager and the Department PREA Coordinator."

The Auditor was provided with the incident reviews conducted for the three applicable investigations conducted during 2018. Although none of these reviews included any formal recommendations, the form

provides the Warden the opportunity to review any recommendations and make subsequent decisions relative to the implementation of those recommendations. Additionally, the Warden and staff who regularly participate in the incident review process were very familiar with the process and related requirements.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Samples of incident reviews
- Sample administrative investigation report
- Training curriculum for Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017
- OCCC Sexual Abuse Incident Reviews conducted 11/16/2018, 01/29/2019, and 11/05/2018

Interviews conducted:

- Warden
- PREA Compliance Manager
- Incident Review Team Members

Standard 115.87: Data collection

115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? Yes No

115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually? Yes No

115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? Yes No

115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews? Yes No

115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.) Yes No NA

115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.87 (a) and (c)

PREA-related definitions are included in agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) section 5.0 (pages 6 – 11). Included in these definitions are acts prohibited under PREA standards along with definitions for staff and offenders to better understand PREA implementation

procedures and strategies. These include, but are not limited to, consent, exigent circumstances, interference with reporting an investigation, retaliation, strip search, and voyeurism.

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.1 and .2 (page 46) requires that, "The Department PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control by utilizing a standardized format based on PREA fs. The standardized format included, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice."

The data collected and reflected in the agency's annual report currently does not include allegations of sexual harassment as the standard addresses sexual abuse. A query was submitted to The PREA Resource Center with the following response:

"The final federal rule includes the following comment:

115.87: Comment: Several commenters recommended adding sexual harassment to this standard. Response. The Department declines to make this change, largely for the same reasons discussed above with respect to § 115.86. While sexual harassment may be a precursor to sexual abuse, it is both more frequent and less damaging than sexual abuse. Requiring the collection of incident-based data on sexual harassment would therefore impose a greater burden and result in fewer benefits than requiring the same data for incidents of sexual abuse.

I heard back from DOJ and they said that the comment in the final rule was the intent despite the fact the SSV collects sexual harassment information. Therefore...you do not have to collect SH data under 115.87 nor include it in the annual report under 115.88 in order to be compliant. All you must collect is all data on the SSV related to sexual abuse."

The Auditor was provided with Survey of Sexual Violence (SSV) data from 2013 and 2016. Discussion with the former PREA Coordinator and a review of system components while on site confirmed that current data collection systems do contain all data elements necessary to answer all questions from the most recent version of the SSV.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.87 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.3 (page 46) specifies that, "The Department PREA Coordinator shall aggregate the incident based sexual abuse data at least annually."

The Auditor was provided with Survey of Sexual Violence (SSV) data from 2013, 2016 and 2017. This in conjunction with discussions with the former PREA Coordinator provided documentation of the required annual data review.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.87 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.5 (page 46) requires that, "The Department PREA Coordinator shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and SAR's [sexual assault review]."

While on site at recent other audits of facilities under the jurisdiction of the Department of Public Safety, members of the Audit Team were able to view elements of the data system in which PREA-related information is maintained and were able to confirm compliance with the elements of this subsection.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.87 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 50.0.5 (page 46) requires, "At least once a year, the Mainland Branch Unit shall report to the Department PREA Coordinator for all incident-based and aggregated data from any private facility with whom it contracts for the confinement of PSD offenders."

Incident data from the Saguaro Correctional Center, a facility in Arizona privately contracted with to house offenders, is included in the annual PREA reports posted to the agency's website. Additionally, data reports, inspection reports, and the PREA audit for this facility are also posted to the agency's public website. It is noted that the agency no longer contracts with the Red Rock Correctional Center in Arizona and plans to remove related information from agency-level population reports.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.87 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 50.0.6 (page 46) requires that, "PSD shall provide all such data from the previous calendar year to the Department of Justice's Survey of Sexual Violence, no later than June 30th of each year."

Per the Bureau of Justice Statistics website <https://harvester.census.gov/ssv/>, the following information was obtained: "Currently OMB approval is pending for the 2017 SSV data collection. We anticipate data collection to begin in Fall 2018. You will receive a letter before then which includes due dates and instructions for completing your SSV survey." As of the writing of this report, DOJ has not yet requested SSV data for the 2017 calendar year.

The Auditor was provided with Survey of Sexual Violence (SSV) data from 2013, 2016, and 2017. This in conjunction with discussions with the former PREA Coordinator provided documentation of the required annual data submission.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Blank US Department of Justice, Bureau of Justice Statistics Survey of Sexual Victimization 2013, 2016 and 2017 State Prisons Systems, Summary Form and Incident Form (Adult)
- PSD public website at www.hawaii.gov/psd
- Annual PREA reports 2011 – 2013, 2014, 2015, and 2016

Interviews conducted:

- No formal interviews were identified in the DOJ templates or Auditor Compliance Tool.

Standard 115.88: Data review for corrective action

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? Yes No

115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse? Yes No

115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? Yes No

115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.88 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.1 and.2 (page 46) requires that, "The Department PREA Coordinator shall review data collected and aggregated pursuant to §50.0 of this policy in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including: (a) Identifying problem areas; and (2) Taking corrective actions on an ongoing basis. The Department PREA Coordinator shall prepare an annual

report of PSD's findings and any corrective actions for each facility, as well as the agency as a whole and as dictated by HRS §353-C." The Auditor was provided with HRS §353-C, Sexual assaults in prison (2013) which states, "The department of public safety, to the best of the department's ability, shall address in prison and make every effort to seek grant moneys from the federal government to implement those efforts. The department shall place priority upon establishing: (1) Appropriate counseling services for sexual assault, to be made available to victims of prison rape within twenty-four hours of the report of an assault; and (2) Policies and standards of transparency to achieve a zero-tolerance policy for sexual assault." Because of this legislation, the agency is required to annually report all related data to the legislature. These reports are also posted to the agency's public website (2010 through 2016) and were reviewed by the Auditor.

Interviews conducted as a part of this audit confirmed that the agency uses the data collected to formulate responsive actions, on both agency and facility levels. The Director designee noted that data helps identify problem areas, so recommendations can be made to the Director regarding policy changes, training, and other responses. This was confirmed in interviews with the former PREA Coordinator and Program Specialist. Additionally, the agency is required to report statistics regarding sexual abuse to the state legislature annually. The Auditor was also provided with these reports, which are also posted to the agency's public website. The PCM confirmed that he is currently working with the Headquarters PREA office regarding data and related reports being prepared for publication.

A review of the most recent annual PREA report posted to the agency's public website provides an assessment of how the agency is meeting standard requirements. "PSD continues its efforts to maintain compliance with the PREA standards. Some of these efforts include; but are not limited to updating policies, requesting community rape crisis centers to provide emotional counseling support services for offenders, updating PREA training with current information and materials, as well as appointing PREA Managers in each facility. Under the guidance of the PSD's PREA Coordinator, PREA Managers direct their facility's efforts to comply with the policies and directives that promote the PREA standards." Additionally, a more detailed section entitled, "PREA Progress and Summary" is included, providing more detailed information about steps the agency is taking to enhance sexual safety in all facilities.

It is noted that the 2017 annual report is not yet posted to the agency's public website. The report is based on the data reported in the federal Survey of Sexual Violence query. This was exceptionally late in being sent to facilities for completion and, as such, the agency's annual report is similarly delayed.

Per the Program Specialist, the annual PREA reports refer to the DOJ PREA audit reports that are also posted to the agency' public website. The documentation regarding problem areas and corrective action would consist of the non-compliant standards and other related information contained in these audit reports. No information specific to the agency's internal analysis to identify problem areas and report on corrective action for each facility as well as the agency is contained in the annual reports as required by this subsection. As a result, OCCC is found to be in non-compliance with the requirements of this subsection. Corrective action should include the provision of required analysis ad resulting information in the 2017 annual report, which has not yet been completed due to a delay in DOJ collection of data.

UPDATE: The 2017 annual agency PREA report was received and now includes all subsection requirements. Based on this, OCCC is now assessed as compliant with this subsection.

115.88 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.2.a (page 47) requires, "This report shall include comparison of the current year's data and corrective actions with those from prior years. The annual report shall provide an assessment of PSD's progress in addressing sexual abuse."

The annual PREA reports reviewed on the agency's public website include incident and finding data from 2011. A review of the most recent annual PREA report posted to the agency's public website provides an assessment of how the agency is meeting standard requirements. "PSD continues its efforts to maintain compliance with the PREA standards. Some of these efforts include; but are not limited to updating policies, requesting community rape crisis centers to provide emotional counseling support services for offenders, updating PREA training with current information and materials, as well as appointing PREA Managers in each facility. Under the guidance of the PSD's PREA Coordinator, PREA Managers direct their facility's efforts to comply with the policies and directives that promote the PREA standards." Additionally, a more detailed section entitled, "PREA Progress and Summary" is included, providing more detailed information about steps the agency is taking to enhance sexual safety in all facilities. However, the posted annual PREA reports do not contain a comparison of the current year's corrective actions with those from prior years as required by this subsection. As a result, OCCC is found to be in non-compliance with the requirements of this subsection. Corrective action should include the provision of required analysis and resulting information in the 2017 annual report, which has not yet been completed due to a delay in DOJ collection of data.

UPDATE: The 2017 annual agency PREA report was received and now includes all subsection requirements. Based on this, OCCC is now assessed as compliant with this subsection.

115.88 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.2.b (page 47) requires, "This report shall be approved by the Director and be made readily available to the public through the PSD's departmental website."

The Director's designee confirmed that the Director approves the annual report that includes data from internal logs, federal reports (SSV), and statutory statistics. The agency is required by statute to maintain statistics regarding sexual abuse and assault, all of which are posted to the agency's public website.

Per the Program Specialist, the annual PREA report is posted to the agency's public website with the Director's approval; that it would not be posted without his authorization. Although this, coupled with the information obtained in the interview with the Director's designee indicates the Director's approval of the report and therefore demonstrates compliance with the requirements of this subsection, it is recommended that future reports contain the Director's signature or some other direct evidence of his approval of the reports prior to publication.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.88 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.3 (page 47) indicates that, "PSD may redact specific material when publication would present a clear and specific threat to the safety and security of a facility. A notation should be made to indicate the nature of the material redacted."

The Auditor reviewed annual PREA reports posted to the agency's public website and confirmed that these reports contained no personally identifying information. It was confirmed by the Program Specialist and former PREA Coordinator that no personal identifying information is contained in published annual reports, that all individual information relating to incidents is maintained in a confidential log on a secured drive and/or in secured access areas with limited authorization based on approval.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PSD public website at www.hawaii.gov/psd

- Annual PREA reports 2011 – 2013, 2014, 2015, and 2016
- HRS §353-C, Sexual assaults in prison (2013)
- Act 194 Sexual Assaults in Correctional Facilities 2010, 2011, 2012, 2013, 2014, 2015, and 2016

Interviews conducted:

- Director's Designee
- PREA Coordinator
- PREA Compliance Manager

Standard 115.89: Data storage, publication, and destruction

115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?
 Yes No

115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? Yes No

115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? Yes No

115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.89 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 52.0.1 (page 47) requires that, "The Department PREA Coordinator shall ensure that the incident-based and aggregated data are securely retained."

Per the Program Specialist, access to the system files in which PREA information is maintained is tied to system sign-in parameters associated with the job classification of the position. Designated positions have been determined by responsibilities to require access to the system, which occurs automatically based on OTRAK permission profiles once the individual is officially assigned to that position. Any other access is granted on a case by case basis and only with the written approval of the PREA Coordinator. The Auditor was provided with a blank User Access Request Form, which would have to be completed, submitted, and approved prior to granting any exceptional access. It is noted that there were no examples of requests for access outside standard position access assignments during the 12 months preceding the on-site review.

During interviews conducted with the Program Specialist and former PREA Coordinator, it was confirmed that all PREA-related information is maintained on a secured drive on an internal server within the

Litigation Coordinator's office. PREA Coordinator authorization is required to gain access to this drive. Additionally, hard copy files are maintained in an office area within secured, keyed cabinets. Admission to the area is achieved by ringing of a doorbell followed by access from a staff member of the Litigation division. Any staff member working in the area is also required to sign a confidentiality agreement.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.89 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 52.0.2 (page 47) Requires that, "The Department PREA Coordinator shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through PSD's departmental website." The Auditor was able to review data on the agency's public website at www.hawaii.gov/psd. The website contains the agency's annual PREA reports from 2011 through 2016. These reports detail aggregate investigation data and also contain data from the Saguaro Correctional Center, a facility in Arizona privately contracted with to house offenders.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.89 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 52.0.3 (page 47) indicates that, "The Department PREA Coordinator shall remove all personal identifier and comply with federal and state statutes, HRS §92(F), Uniform Information Practices Act, prior to publishing the data." The Uniform Information Practices Act states in part,

This chapter shall be applied and construed to promote its underlying purposes and policies which are to:...(5) Balance the individual privacy interest and the public access interest, allowing access unless it would constitute a clearly unwarranted invasion of personal privacy...Government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy...The following are examples of information in which the individual has a significant privacy interest...(2) Information identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation.

The Auditor reviewed annual PREA reports posted to the agency's public website and confirmed that these reports contained no personally identifying information. It was confirmed by the Program Specialist that no personal identifying information is contained in published annual reports, that all information relating to incidents is maintained in a confidential log on a secured drive and/or in secured access with limited access based on approval.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

115.89 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 52.0.4 (page 47) requires that, "The Department PREA Coordinator shall maintain the sexual abuse data collected based on §50.0 for at least ten (10) years after the date of the initial collection, unless federal, state, or local laws require otherwise." The Auditor was able to review data from 2011 in the form of annual PREA reports on the agency's public website at www.hawaii.gov/psd.

It is noted that the 2017 annual report is not yet posted to the agency's public website. The report is based on the data reported federal Survey of Sexual Violence query. This was exceptionally late in being sent to facilities for completion and, as such, the agency's annual report is similarly delayed.

Based on the above, OCCC is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PSD public website at www.hawaii.gov/psd
- Annual PREA reports 2011 – 2013, 2014, 2015, and 2016
- Blank User Access Request Form
- HRS §92(F), Uniform Information Practices Act

Interviews conducted:

- PREA Coordinator

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.)
 Yes No NA

115.401 (b)

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited? Yes No

115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?
 Yes No

115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? Yes No

115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?
 Yes No

115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.401 (a)

The Hawaii Department of Public Safety ensured audits were conducted by DOJ certified auditors in all of its prison and jail facilities during the first DOJ audit cycle. PSD also monitors the PREA compliance in the private facility with which it contracts for the housing of offenders on its behalf.

115.401 (b)

The Hawaii Department of Public Safety operates four (4) jails and four (4) prison facilities. They have scheduled audits of their facilities as follows during a three (3) year audit cycle -

- Year one – No jails and three (3) prisons
- Year two – Two (2) jails and no prisons
- Year three – Two (2) jails and one (1) prison

Although the prison facilities are disproportionately represented in year one, this schedule was established in response to the time needed to implement PREA standards in jail facilities. The agency has maintained audits in accordance with this cycle and revision would likely cause an undue burden on the facilities and possibly bring the agency into non-compliance by having to shift a prison facility from year one into year two. Additionally, the three prison facilities audits in year one are in close proximity with each other and logistically should be audited together in order to facilitate the audits and manage expenses. Finally, although a facility may be classified as a jail, they also maintain furlough components that function more in line with prison operations. As a result, the agency is assessed as compliant with this subsection.

115.401 (h)

Although under supervision as a facility visitor, the Auditor and supporting Team members were allowed free access to every part of the facility.

115.401 (i)

Where requested documentation was not received prior to the writing of the interim report, the facility was assessed as non-compliant with the requirements of the applicable standard and corrective action was developed. It is noted that of documentation was requested and not received for 13 standards. Corrective action should include the implementation of processes to more promptly respond to Auditor requests. It is recommended that this include additional involvement on the part of the facility PCM rather than relying solely on the Program Specialist for the submission of information and/or documentation to the Auditor.

UPDATE – The Auditor was provided with documentation needed to move all standards identified as non-compliant in the interim report to compliant in the final report. As a result, OCCC is now assessed as compliant with the requirements of this subsection. The Auditor recommends that in the future, more audit-related responsibilities are shifted away from the Program Specialist to the facility PCM. Additionally, the Auditor recommends that the agency implement processes whereby the PREA Coordinator and Program Specialist can review facility processes and related documentation to ensure processes initiated during the corrective action period are consistently sustained and the facility remains audit ready at all times.

115.401 (m)

Interviews were conducted based on lists provided by the facility, to include all specialty staff, all specialty inmates, all staff on shift for the days of the on-site review, and all offenders currently assigned to the facility. Selection of staff and offenders for random interviews were done from lists provided and included no specific method of selection, just a truly random selection while ensuring representation from all areas within the facility. Private locations within the administration building (a conference room and an office) along with office locations within the facility proper were provided and escorts were provided by the designated Adult Correctional Officers. Staff were contacted via radio or telephone for interviews while offenders were paged via the central intercom system. All individuals interviewed were informed of confidentiality and provided with the opportunity to decline any interview.

115.401 (n)

Between the time of the initial audit documentation notification posting and the issuing of this interim report, letters were received from three (3) OCCC offenders. These offenders were included in interviews while on-site.

Standard 115.403: Audit contents and findings

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

115.403 (f)

PSD posts all PREA audit reports to its public website (www.hawaii.gov/psd). This includes the report from the previous audit conducted at OCCC.

AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Beth L. Schubach
Auditor Signature

10/14/2019
Date

¹ See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

² See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.